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printed for Subscribers only.*

MEMOIRS OF LIBRARIES

(PUBLIC AND PRIVATE);

OF MUSEUMS, AND OF PUBLIC
ARCHIVES;

AND OF SOME OF THEIR CHIEF FOUNDERS, COLLECTORS,
KEEPERS, AND BENEFACTORS.

[VOLUME I.]

Part I. **MEDIÆVAL.**

Part II. **MODERN:—**

(LONDON AND OXFORD.)

By EDWARD EDWARDS,

AUTHOR OF "THE LIFE OF SIR WALTER RALEGH" (1868);

EDITOR OF "LIBER MONASTERII DE HYDA," IN THE *Chronicles and
Memorials of Great Britain* (ROLLS SERIES; 1866);

AUTHOR OF THE TWO ARTICLES "LIBRARIES," IN THE *Eighth*
Edition of *Encyclopædia Britannica* (1857): and of
the ARTICLES "NEWSPAPERS, History of," and "POST-OFFICES,
British and Foreign," IN THE *Ninth* Edition of the same *Encyclopædia* (1883).

*Second Edition, revised, continued, and (in great part)
re-written.*

1884.

"I SHALL NOT be offended (as I certainly ought not to be) at any due corrections given me by others. Great room there is for *amendments*, as well as *additions*; and either of these, in what dress soever they come,—rough or smooth,—will be very heartily welcome to me."

Archbishop NICOLSON (of Cashel): "*Irish Historical Library*," Pref., p. xxxvi.
[Edit. of 1724.]

"As FOR the remainder of the Work, all that I can say is that it is my design, BY GOD'S PERMISSION, to publish at least another volume. But as for the time, I have been so often deceived in the Printing-House, and also by wrong calculations myself, that I have learnt it is vain to *fix* any time for publication" [otherwise than as a hope].

Edward LHUYD: Appendix to NICOLSON, as above, p. 241. [Same Edit.]

I. THIS book was originally published in London by Messrs. Trübner and Co., in January, 1859, in demy 8vo., and in two volumes; of which Vol. I. contained 870 pages, and Vol. II. 1142 pages = 2012 pages in all. The type (exclusive of quotations) was Pica; the number printed 1000. The place of printing was Leipsic (F. A. Brockhaus and Co.).

The price to Subscribers was £2: the publication price was £2 8s.

A small additional impression, on large and thick paper, was also printed, of which the publication price was £4 4s.

II. The New Edition will be of like size and type, but on paper of far superior quality. Both paper and print will be English. The 'quotations' are very much compressed, and will be printed in one and the same type with the rest of the book,—differentiated only by being *indented* throughout. It will (*D.V.*) be in *three* volumes, each containing, on the average, sixty-six sheets = 1056 pages, or, in the whole, 3168 pages. It will not become a 'trade-book,' but will be printed exclusively for Subscribers, and will be sold only by the Author (*Sea-View, Niton, Isle of Wight*), and by the Printer. Each volume is so arranged as to be a book complete in itself; *i.e.* it embraces a strictly definite section of the general subject, and is furnished with a special title-page, expressive of that section only, as well as with a general title-page, common to the three. So that if the Author (who has now entered into his seventieth year) should not be permitted to see the completion of the printing, his re-

moval, it is hoped, will not leave the Subscribers in possession of an "incomplete" book, in the strict sense of that term.

III. The subscription is to be paid only upon the actual delivery of each volume ; and Vol. I., it is also hoped, may be ready for issue in June, 1884.

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*Sea-View, Niton, Isle of Wight,
September 15, 1883.*

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Niton, I. W., Sept. 15, 1883.

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Are a substantial world,—*if* pure and good,
Round which, with tendrils strong as flesh and blood,
Our pastime—and our happiness—will grow.”



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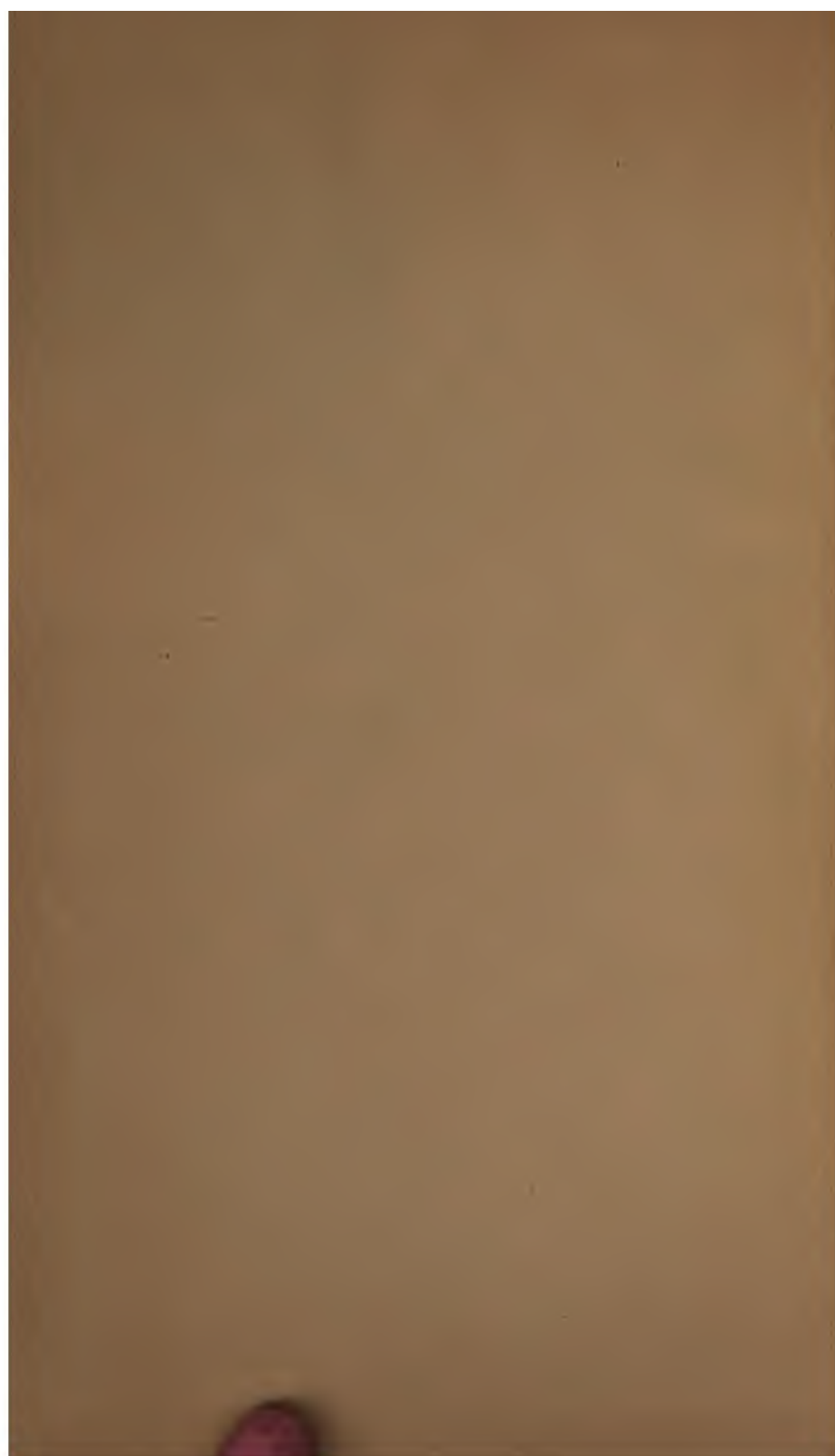
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PREFATORY NOTE.

FOR the materials of the earlier of the 'Lives' contained in this volume I have been chiefly indebted to the Collection of State Papers at the Rolls House; to the Privy-Council Registers at the Council Office; and to many manuscripts in the Cottonian, Harleian, Sloane, and Lansdowne Collections at the British Museum.

HIGHGATE; *6th May*, 1870.

*The liberal deviseth liberal things ; and by
liberal things shall he stand.*

ISAIAH, xxxii, 8.

*Man's only relics are his benefits ;
These, be there ages, be there worlds, between,
Retain him in communion with his kind.*

LANDOR (*Count Julian*).

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*EARLY COLLECTORS:—THE GATHERERS
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VI. THE FOUNDERS OF THE SLOANE MUSEUM.

..... "THE reverence and respect your Petitioners bear to the memory of the most learned Sir ROBERT COTTON are too great not to mention, in particular, that from the liberal use of his Library sprang (chiefly) most of the learned works of his time, for ever highly to be valued. The great men of that age constantly resorted to and consulted it to shew the errors and mistakes in government about that period. And, as this inestimable Library hath since been generously given and dedicated to the Public use for ever, to be a National Benefit, your Petitioners presume that no expression of gratitude can be too great for so valuable a treasure, or for doing honour to the Memory and Family of Sir ROBERT COTTON."—
'Petition to the Honourable House of Commons from the Cottonian Trustees' (drawn up antecedently to the Foundation Act of the British Museum); 1752.

CHAPTER I.

INTRODUCTION.

Chronological Epochs in the Formation of the British Museum.

IN two particulars, more especially, our great National Museum stands distinguished among institutions of its kind. The collections which compose it extend over a wider range than that covered by any other public establishment having a like purpose. And, if we take them as a whole, those collections are also far more conspicuously indebted to the liberality of individual benefactors. In a degree of which there is elsewhere no example, the British Museum has been gradually built up by the munificence of open-handed Collectors, rather than by the public means of the Nation, as administered by Parliament, or by the Governments of the day.

THE PUBLIC
DEBT TO
PRIVATE
COLLECTORS.

The real founders of our British Museum have been neither our British monarchs nor our British legislators, as such. They have been, commonly, individual and private British subjects; men loyal both to the Crown and to the People. Often, they have been men standing in direct lineal descent from the great Barons who dictated the Charter of our liberties, in the meadow near Windsor, and from those who led English knights and English bowmen to victory, on the wooded slopes near Poitiers. Sometimes, they have been men of very lowly birth; such as could point to no

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TION.

ancestral names appended to *Magna Charta*, or to the famous letter written from Lincoln to Boniface the Eighth; such as may, indeed, very well have had ancestors who gave their lives, or their limbs, for England at Poitiers or at Cressy, but who certainly could point to no heraldic memorials of feats of arms done on those bloody fields of France. Not a few of them, perhaps, would have been vainly asked to tell the names of their grandfathers. One boast, however, is common to both of these groups of our public benefactors. They were men who had alike a strong sense of gratitude to those who had gone before them, and a strong sense of duty to those who were to come after them. To nearly all of the men whose lives will be told in this volume are applicable, in a special sense, some words of Julius HARE:—‘They wrought in a magnanimous spirit of rivalry with Nature, or in kindly fellowship with her. . . . When they planted, they chose out the trees of longest life—the Oak, the Chestnut, the Yew, the Elm,—trees which it does us good to behold, while we muse on the many generations of our Forefathers, whose eyes have reposed within the same leafy bays.’ They were men whose large impulses and deep insight led them to work, less for themselves than for their successors. It is by dint of what men of that stamp did—and did, not under the leading of the Gospel according to Adam SMITH, but of a Gospel very much older than it—that upon us, whose day is now passing, Posterity, so to speak, ‘has cast her shadow before; and we are, at this moment, reposing beneath it.’ Of Public Benefactions, such as those which this volume very inadequately commemorates, it is true, with more than ordinary truth, that we owe them, mainly, to a generous conviction in the hearts of certain worthies of old days that they owed suit and service to

J. & A. Hare,
*Gleaners at
Truth*, vol. ii,
p. 18.

Posterity. This may, indeed, be said of public foresight, when evidenced in material works and in provisions to smooth some of the asperities of common life and of manual toil. But it may be said, more appropriately still, of another and a higher kind of public foresight;—of that evidenced in educational institutions, and in the various appliances for raising and vivifying the common intellect; for enlarging its faculties; diffusing its enjoyments; and broadening its *public* domain. As it has been said (by the same acute thinker who has just been quoted) in better words than any of mine:—‘The great works that were wrought by men of former times; the great fabrics that were raised by them; their mounds and embankments against the powers of evil; their drains to carry off mischief; the wide fields they redeemed from the overflowings of barbarism; the countless fields they enclosed and husbanded for good to grow and thrive in; . . . all this they [mainly] achieved *for Posterity* . . . Except for Posterity; except for the vital magnetic consciousness that while men perish, Man survives, the only principle of prudent conduct must have been, “*Let us eat and drink, for to-morrow we die.*”’

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TION.

J. & A. Hare,
*Gleanings at
Truth*, vol. ii,
p. 13.

The pages which follow have been written in the belief that they afford—whatever the defects of their Writer—useful illustrations of this great and pregnant truth. To him it has not been given to work ‘*for Posterity*,’ otherwise than as a Chronicler of some of the workings of other men. But he owns to a special delight in that humble function. Its charm,—to his mind,—is enhanced, on the present occasion, by the very fact that so much of the work now about to be narrated is the work of men who only rarely have been labouring with other means, or with other imple-

ments, than those which were personal to themselves, as individuals.

In the chief countries of the Continent of Europe—on the other hand—great national Museums have, commonly, had their origin in the liberality and wise foresight either of some sovereign or other, or of some powerful minister whose mind was large enough to combine with the cares of State a care for Learning. In Britain, our chief public collection of literature and of science originated simply in the public spirit of private persons.

The BRITISH MUSEUM was founded precisely at that period of our history when the distinctively national, or governmental, care for the interests of literature and of science was at its lowest, or almost its lowest, point. As regards the monarchs, it would be hard to fix on any, since the dawn of the Revival of Learning, who evinced less concern for the progress and diffusion of learning than did the first and second princes of the House of Hanover. As regards Parliament, the tardy and languid acceptance of the boon proffered, posthumously, by Sir HANS SLOANE, constitutes just the one exceptional act of encouragement that serves to give saliency to the utter indifference which formed the ordinary rule.

Long before SLOANE'S time (as we shall see hereafter), there had been zealous and repeated efforts to arouse the attention of the Government as well to the political importance as to the educational value of public museums. Many thinkers had already perceived that such collections were a positive increase of public wealth and of national greatness, as well as a powerful instrument of popular education. It had been shewn, over and over again, that for lack of public care precious monuments and treasures

of learning had been lost ; sometimes by their removal to far-off countries ; sometimes by their utter destruction. Until the appeal made to Parliament by the Executors of Sir Hans SLOANE, in the middle of the eighteenth century, all those efforts had uniformly failed.

But Sir Hans SLOANE cannot claim to be regarded, individually or very specially, as the Founder of the British Museum. His last Will, indeed, gave an opportunity for the foundation. Strictly speaking, he was not even the Founder of his own Collection, as it stood in his lifetime. The Founder of the Sloane Museum was William COURTEN, the last of a line of wealthy Flemish refugees, whose history, in their adopted country, is a series of romantic adventures.

Parliament had previously accepted the gift of the Cottonian Library, at the hands of Sir John COTTON, third in descent from its Founder, and its acceptance of that gift had been followed by almost unbroken neglect, although the gift was a noble one. Sir John, when conversing, on one occasion, with Thomas CARTE, told the historian that he had been offered £60,000 of English money, together with a *carte blanche* for some honorary mark of royal favour, on the part of LEWIS THE FOURTEENTH, for the Library which he afterwards settled upon the British nation. It has been estimated that SLOANE expended (from first to last) upon his various collections about £50,000 ; so that, even from the mercantile point of view, the COTTON family may be said to have been larger voluntary contributors towards our eventual National Museum than was Sir Hans SLOANE himself. That point of view, however, would be a very false, because very narrow, one.

Whether estimated by mere money value, or by a truer standard, the third, in order of time, of the Foundation-

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TION.

THE REAL
FOUNDERS
OF THE
BRITISH
MUSEUM.

THE ACQUI-
SITION, BY
THE NATION,
OF THE
COTTON
LIBRARY.

(T. Carte to
Sir Thomas
Hanmer,
Speaker of
the House of
Commons;
*Hanmer Cor-
resp.*, p. 226.)

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INTRODUC-
TION.

Collections,—that of the ‘Harleian Manuscripts,’—was a much less important acquisition for the Nation than was the Museum of SLOANE, or the Library of COTTON; but its literary value, as all students of our history and literature know, is, nevertheless, considerable. Its first Collector, Robert HARLEY, the Minister of Queen Anne and the first of the Harleian Earls of Oxford, is fairly entitled to rank, after COTTON, COURTEN, and SLOANE, among the virtual or eventual co-founders of the British Museum.

Chronologically, then, Sir Robert COTTON, William COURTEN, Hans SLOANE, and Robert HARLEY, rank first as Founders; so long as we estimate their relative position in accordance with the successive steps by which the British Museum was eventually organized. But there is another synchronism by which greater accuracy is attainable. Although four years had elapsed between the passing—in 1753—of *‘An Act for the purchase of the Museum or Collection of Sir Hans Sloane, and of the Harleian Collection of Manuscripts, and for providing one general repository for the better reception and more convenient use of the said Collections, and of the Cottonian Library and of the additions thereto,’* and the gift—in 1757—to the Trustees of those already united Collections by King GEORGE THE SECOND, of the Old Royal Library of the Kings his predecessors, yet that royal collection itself had been (in a restricted sense of the words) a Public and National possession soon after the days of the first real and central Founder of the present Museum, Sir Robert COTTON. But, despite its title, that Royal Library, also, was—in the main—the creation of subjects, not of Sovereigns or Governments. Its virtual founder was HENRY, Prince of Wales. It was acquired, out of his privy purse, as a

THE OLD
ROYAL
LIBRARY,
formed by
PRINCE
HENRY (son
of James I)
at St. James’.

subject, not as a Prince. He, therefore, has a title to be placed among the individual Collectors whose united efforts resulted—after long intervals of time—in the creation, eventually, of a public institution second to none, of its kind, in the world.

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TION.

Prince HENRY's story is not the least curious of the many life-stories which these pages have to tell. That small span of barely eighteen years was eventful, as well as full of promise. And it may very fitly be told next, in order, after that of CORRON, who was not only his contemporary but his friend.

As the Royal Library was, in a certain degree, a Public Collection before the foundation of the Museum, so also was the Arundelian Library of Manuscripts. It did not become part of the British Museum until nearly eighty years after the amalgamation of the Cottonian, Harleian, Sloanian, and Royal Collections into one integral body. But the munificent Earl who formed it had often made it public, for the use of scholars, in his own lifetime. One or two of his descendants allowed it to fall into neglect. Before it left old Arundel House, in the Strand, it was exposed, more than once, to loss by petty thefts. But when, by another descendant, the injury was repaired, and the still choice collection given—at the earnest entreaty of another of our English worthies, John EVELYN—to the Royal Society, the Arundelian MSS., like the Library at Saint James' Palace, became (so far as a circle of literary men and of the cultivators of scientific inquiry were concerned) a public possession. Many of the Arundelian marbles had also become—by other acts of munificence worthy of the time-honoured name of HOWARD—to the Public at large, and without restriction, 'things of beauty,' and 'joys for ever.' Others of them, indeed, are—even in

THE MSS.
OF LORD
ARUNDEL.

these days—shut up at Wilton with somewhat of a narrow jealousy of the undistinguished multitude. But, by the liberality of the Dukes of MARLBOROUGH, the choice gems gathered by the Earl of ARUNDEL during his long travels on the Continent, and his widespread researches throughout the world, have long been made available to public enjoyment, in more ways than one. The varied narrative of that famous Collector's life may, perhaps, not unfitly be placed next after that of the best of the Stuart princes. ARUNDEL, like HENRY, was the friend of Sir Robert COTTON, and was proud of that distinction.

Undoubtedly, there is more than one point of view from which we may regard the preponderating share borne by private collectors in the ultimate creation of our national repository as matter of satisfaction, rather than matter of shame. It testifies to the strength amongst us—even at times deeply tinged with civil discord—of public and patriotic feeling. Nor is this all. It testifies, negatively, but not less strongly, to a conscientious sense of responsibility, on the part of those who have administered British rule in conquered countries, and in remote dependencies of the Crown. Few readers of such a book as this are likely to be altogether unacquainted with national museums and national libraries which have been largely enriched by the strong hand of the spoiler. Into some such collections it is impossible for portions of the people at whose aggregate expense they are maintained to enter, without occasional feelings of disgust and humiliation. There are, it is true, a few trophies of successful war in our own Museum. But there is nothing in its vast stores which, to any visitor of any nationality whatever, can bring back memories of ruthless and insolent spoliation.

That narrowness of conception, however, which has made some publicists to regard the slenderness of the contributions of the Nation at large, when contrasted with the extent of those of individuals, as if it were a cause for boasting, is visibly, and very happily, on the decline. It is coming to be recognised, more implicitly with every year that passes, that whatever can be done by the action of Parliament, or of the Government, for the real promotion of public civilisation,—in the amplest and deepest meaning of that word,—is but the doing of the People themselves, by the use of the most effective machinery they have at hand; rather than the acceptance of a boon conferred upon them, extraneously and from above.

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TION.

If that salient characteristic in the past history of our **BRITISH MUSEUM** is very far from affording any legitimate cause of boasting to the publicist, it affords an undeniable advantage to the narrator of the history itself. It not only broadens the range of his subject, by placing at its threshold the narrative of several careers which will be found to combine, at times, romantic adventure and political intrigue with public service of a high order; but it binds up, inseparably, the story of the quiet growth of an institution in London with occasional glimpses at the progress, from age to age, of geographical and scientific discovery, of archæological exploration, and of the most varied labours for the growth of human learning, throughout the world.

As an organized establishment, the **BRITISH MUSEUM** is but little more than a century old. The history of its component parts extends over three centuries. That history embraces a series of systematic researches,—scientific, literary, and archæological,—the account of which (whatsoever the needful brevity of its treatment in these

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pages) must be told clumsily, indeed, if it be found to lack a very wide and general interest for all classes of readers—one class only excepted.

THE DIVERSITY OF THE
 MUSEUM
 COLLECTIONS.

Even the least thoughtful among those visitors who can be said to frequent the Museum—as distinguished from the mere holiday guests, who come only in crowds, little favourable to vision; to say nothing of thought—will occasionally have had some faint impression or other of the great diversity and wonderful combination of effort which must have been employed in bringing together the Collections they look upon. Every part and almost every age of the world has contributed something; and that something includes the most characteristic productions and choicest possessions of every part. Almost every man of British birth who,—during many centuries,—has won conspicuous fame as a traveller, as an archæologist, or as a discoverer, has helped, in one way or other, to enrich those collections. They bear their own peculiar testimony to nearly every step which has been taken either in the maritime and colonial enterprise, or in the political growth, of the British empire. Nor is their testimony a whit less cogent to the power of that feeling of international brotherhood, in matters of learning and science, which grows with their growth, and waxes stronger with their strength.

To the remarkable career of the first of those four primary Collectors, whose lifelong pursuits converged, eventually, in the foundation of an institution, of the full scope of which only one of the four had even a mental glimpse—and SLOANE'S glimpse was obviously but a very dim one—the attention of the reader has now to be turned. Sir Robert COTTON'S employments in political

life (unofficial as they were), and the powerful influence which he exerted upon statesmen much abler than himself, will be found, it is hoped, to give not a little of historical interest to his biography, quite additional to that which belongs to his pursuits as a studious Collector, and as the most famous of all the literary antiquaries who occur throughout our English story.

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INTRODUC-
TION.

To the conspicuous merits which belong to Sir Robert COTTON as a politician of no mean acumen, and as,—in the event,—the real Founder of the British Museum, are added the still higher distinctions of an eminently generous spirit and a faithful heart. His openhandedness in giving was constant and princely. His firmness in friendship is testified by the fact that although (in a certain point of view) he was the courtier both of JAMES THE FIRST and of CHARLES THE FIRST, he nevertheless stood persistently and unflinchingly by the side of ELIOT, and of the men who worked with ELIOT, in the period of their deepest court disgrace. By the best of the Parliamentary leaders he was both revered and loved. And he reciprocated their feeling.

My personal pleasure in the task of writing the life of such a man as he was is much enhanced by a strong conviction that certain recent attacks upon his memory are based upon fallacious evidence, shallow presumptions, and hasty judgments. It is my hope to be able to shew to the Reader, conclusively, that COTTON was worthy of the cordial regard and the high esteem in which he was uniformly held by men who stood free of all bias from political and party connexion—such, for example, as William CAMDEN, who spoke of him, almost with dying lips, as ‘the dearest of all my friends,’—as well as by those great Parliamentary leaders whose estimate of him may, perhaps, be thought—by hasty readers—to rest partly, if

RECENT
ATTACKS ON
SIR ROBERT
COTTON'S
MEMORY.

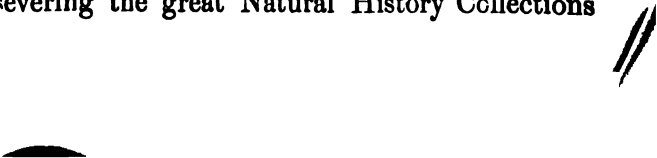
not mainly, on the eminent political service which he was able to render them.

When these pages shall come from the Press just three hundred years will have elapsed since Sir Robert Cotton's birth. Our English proto-collector was born in the year 1570. The year 1870 will, in all probability, witness the definite solution of a knotty problem as to the future of the great institution of which he was the primary and central founder.

COTTON may be regarded as the English 'proto-collector,' in a point of view other than that which concerns the British Museum. No Library in the United Kingdom can, I think, shew an *integral* 'Collection,' still extant, the formation of which—as a Collection—can be traced to an earlier date than that of the collection of the Cottonian Manuscripts.

Whether the BRITISH MUSEUM shall continue to be the great national repository for Science, as well as for Literature and Antiquities, is a question which is fast ripening for decision; and it is one which ought to be interesting to all Britons. It is also, and very eminently, one of those questions of which it is literally—and not sarcastically—to be affirmed that 'there is much to be said on both sides.'

Personally I have a very strong conviction on that subject. But in treating of it—in the 'Postscript' which closes the present volume—it has been my single and earnest aim to state, with the utmost impartiality I am able to attain, the leading arguments for maintaining the Museum in its full integrity; and also the leading arguments for severing the great Natural History Collections



from the rapidly growing Libraries and from the vast Galleries of marbles, bronzes, pottery, medals, and prints. It is the business of writers to state and marshal the evidence. It is the business of Parliament to pronounce the judgment.

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The main epochs in the History of the British Museum afford what may be looked upon almost as a 'table of contents' to the present volume. And they may be brought under the Reader's eye in a way which will much facilitate the correct apprehension of the author's plan. I exhibit them thus :—

CHRONOLOGICAL LIST OF THE DATES, FOUNDERS, AND
OF WHICH THE BRITISH MUSEUM

CLASS I.—**Foundation Collections;**

I. COTTONIAN MANUSCRIPTS, COINS, MEDALS,

Collected by **Sir Robert Cotton**, Baronet (born in the year
Nation by **Sir John Cotton** in 1700. *Augmented* during
Arthur Agarde (1615), **William Camden** (1623),
Lambarde (1601), and others; and, after his death, by the
Sir John COTTON, his descendants; and also by the Printed Library
given in 1738.

II. OLD 'ROYAL LI-

Re-founded, or restored, by **Henry, Prince of Wales**
1612). [See CLASS II, § 1.]

III. ARUNDELIAN

Collected by **Thomas Howard, Earl of Arundel**
England; K.G. (Born in 1586; succeeded as XXIIIrd Earl of
1646.) [See CLASS II, § 33.]

IV. THOMASON TRACTS (Printed and Manuscript).

V. HARLEIAN

Collected by **Robert Harley, Earl of Oxford** (born
mented by incorporation, at various times, of the Collections,
of the Collections of **Sir Humphrey Gilbert** (died
Rogers (1590), **John Stowe** (1605), **Sir Henry**
nard (1633), **Sir Henry Spelman** (1641), **Sir**
James Ware (1666), **William Sancroft**, Archbishop
guier, Chancellor of France (1696), **John Bagford** (1716);

VI. 'SLOANE MUSEUM' OF NATURAL HISTORY AND OF
OF MANUSCRIPTS AND PRINTED

Collected by **William Courten** [known during part of his
1642; died 26 March, 1702); *continued* by **Sir Hans**
died 11 January, 1752); *bequeathed*, by the Continuator, to the
payment to his executors, by authority of Parliament, of the
his Collections—to use the words of his last Will,—being things
'tion of the Glory of God, the Confutation of Atheism and its
'ment of the Arts and Sciences, and benefit of Mankind, may
'and that chiefly in or about the City of London, where they
'be of most use.' . . . [See Book I, c. 6.]

ACTER, OF THE COMPONENT COLLECTIONS, OUT
EEN FORMED OR ENLARGED :—

—1762.

THESE ANTIQUITIES.

died 6 May, 1631). *Given* to the collector's lifetime by the gifts of **Dee** (1608), **William** itions of Sir Thomas COTTON and **Major Arthur Edwards**,

in 1594; died 6 November,

SCRIPTS.

of Norfolk; Earl Marshal of el in 1603; died 4 October,

CLASS II, § 3.]

SCRIPTS.

11; died 21 May, 1724). *Aug-* lly, or of considerable portions **John Foxe** (1581), **Daniel** le (1622), **Sampson Len-** **onds D'Ewes** (1650), **Sir** aterbury (1693), **Peter Se-** hers. [See BOOK I, c. 5.]

UITIES; AND LIBRARY

1.

'**William CHARLETON**'] (born in **ne**, Baronet (born in 1660; **i Nation**,—conditionally on the £20,000,—in order that those ng many ways to the Manifesta- uences, the Use and Improve- i together and not be separated, y the great confluence of people

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TION.

INCORPORATED by the Act (A.D. **1753**) 26 GEO. II, c. 22, entitled, '*An Act for the Purchase of the Museum or Collection of Sir Hans Sloane and of the Harleian Collection of MSS.; and for providing one General Repository . . for the said Collections and for the Cottonian Library and additions thereto*;

Opened, for Public Use, on Monday the 15th January, **1759**; and subsequently AUGMENTED, from time to time, by numerous additional Collections; and, MORE PARTICULARLY, by the following—

Primary

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TION.

CLASS II.—**Primary Accession Collections.**
1757–1831:—

(1)

1757. Old 'ROYAL LIBRARY.'

EPOCHS
OF BRIT.
MUSEUM
GROWTH AND
INCREASE.

Restored, by **Henry, Prince of Wales**, in the year 1609, by the purchase—and incorporation with the remnants of an ancient collection—of the Library of **John de Lumley, Lord Lumley** (Born *circa* 1530 ; Restored in blood, as VIth Baron Lumley, in 1547 : Died 1609) ; *Continued* by **Charles I** and **Charles II, Kings of England, &c.**, from 1627 to 1683 ; *Given* to the Nation by **King George the Second** in 1757.

This OLD ROYAL LIBRARY, although, as above mentioned, it still contains fragments of the more ancient Collection of the Kings of England—and among them books which undoubtedly belonged to King HENRY THE SIXTH, if not to earlier Plantagenet kings—may fairly be regarded as of Prince HENRY's foundation in the main. Lord LUMLEY's Library (which the Prince bought in bulk) contained that of his father-in-law, Henry **Fitzalan**, Earl of Arundel, into which had passed a part of Archbishop **Cranmer's** Library. But this conjoined Collection has not wholly passed to the British Museum. It suffered some losses after Prince HENRY's death. On the other hand, it had acquired the collection of MSS. formed by the THEYERS (John and Charles), in which was included another part of the Library of CRANMER ; as I shall shew hereafter.

[See Book I, Chapter 3.]

(II)

1759. HEBREW LIBRARY (Printed and Manuscript) of
DA COSTA.

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TION.

Collected by **Solomon Da Costa**, formerly of Amsterdam, and chiefly between the years 1720 and 1727; *Given* by the Collector, in 1759, to the Trustees of the British Museum 'for inspection and service of the Public, as a small token of my esteem, reverence, love, and gratitude to this magnanimous Nation, and as a thanksgiving offering . . . for numberless blessings which I have enjoyed under it.' (From DA COSTA's Letter to the Trustees.)

A collection, small in extent, but of great intrinsic worth; and very memorable, both as the generous gift of a good man; and as instancing the co-operation (at the very outset) of the love of learning in a foreigner—and a Jew—with a like love in Britons, for a common object; national, indeed, but also much more than national.

(III)

1762. The THOMASON COLLECTION of ENGLISH BOOKS and TRACTS, Printed and Manuscript.

Collected by **George Thomason** (Died 1666); *Purchased* by **King George the Third**, in 1762, for presentation to the British Museum.

This Collection—the interest of which is specially but by no means exclusively political and historical—was formed between the years 1641 and 1663 inclusive, and it contains everything printed in England during the whole of that period which a man of great

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enterprise and energy could bring together by daily watchfulness and large outlay. It also contains many publications, and many private impressions, from printing-presses in Scotland, Ireland, and the Continent of Europe, relating to or illustrating the affairs of the United Kingdom and of the Commonwealth. In his lifetime, the Collector refused £4000 for his library, as insufficient to reimburse his costs, charges, and labour. His heirs and their assigns kept it for a century and then sold it to King George III for £300. It includes many political MSS., which no printer dared to put to press.

(IV)

1766. The SOLANDER FOSSILS.

Collected by **Daniel Charles Solander** (Died 16 May, 1782); Purchased by **Gustavus Brander** and by him *presented* to the Museum (of which he was one of the first Trustees) in 1766.

The 'Solander Fossils'—so called from the name of the eminent naturalist who found and described them—formed the primary Collection on which by gradual accessions the present magnificent collection of fossils has been built up.

(V)

1766. The BIRCH LIBRARY OF PRINTED BOOKS and MANUSCRIPTS.

Collected by **Thomas Birch, D.D.**, a 'Trustee of the British Museum (Died 1766), and *bequeathed* by the Collector.

(VI)

1772. The HAMILTON VASES, ANTIQUITIES, and DRAWINGS.

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TION.

Collected by **Sir William Hamilton** (Died 6 April, 1803); *Purchased* by Parliament from the Collector in 1772 for £8400.

[See Book II, Chapter 2.]

(VII)

1790-1799. The MUSGRAVE LIBRARY.

Collected by **Sir William Musgrave**, a Trustee (Died 1799); *Acquired*, partly by gift in 1790; partly by bequest in 1799.

[See Book II, Chapter 1.]

(VIII)

1799. The CRACHERODE LIBRARY and MUSEUM.

Collected by the Reverend **Clayton Mordaunt Cracherode**, a Trustee of the British Museum (Died 1799), and *bequeathed* by the Collector.

[See Book II, Chapter 3.]

(IX)

1799. The HATCHETT MINERALS.

Collected by **Charles Hatchett**, and *purchased* for £700.

(X)

1802. The ALEXANDRIAN COLLECTION of EGYPTIAN ANTIQUITIES.

Collected by the **French Institute of Egypt** in 1800; *Transferred* to the Crown of England by the

terms of the Capitulation of Alexandria in 1801; *Given to the Museum in 1802 by **King George the Third.***
[See Book II, Chapter 2.]

(XI)

1802. The TYSSSEN ANGLO-SAXON COINS.

*Collected by **Samuel Tyssen**; Purchased by the Trustees (for £620).*

(XII)

1805-1814. The TOWNLEY MARBLES, COINS, and DRAWINGS.

*Collected by the Townley Family, and chiefly by **Charles Townley**, of Townley in Lancashire; and acquired by Parliament, by successive *purchases*, in the years 1805 and 1814, for the aggregate sum of £28,200.*

[See Book II, Chapter 2.]

(XIII)

1807. The LANSDOWNE MANUSCRIPTS.

*Collected by **William Petty Fitzmaurice**, Marquess of Lansdowne (Died 1805), who *incorporated* in it from time to time parts of the Libraries and Manuscript Collections of **William Cecil, Lord Burghley** (Died 1598); of **Sir Julius Cæsar** (Died 1636); of **White Kennet**, Bishop of Peterborough (Died 1728); of **John Strype** (Died 1737); of **Philip Carteret Webb** (Died 1770); and of **James West** (Died 1772). *Purchased by Parliament for the sum of £4925.**

[See Book II, Chapter 3.]

(XIV)

1810. The GREVILLE MINERALS.

Collected by Charles Greville. Purchased by Parliament for the sum of £13,727.

[See Book II, Chapter 2.]

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TION.

(XV)

1810. The ROBERTS ENGLISH COINS.

Collected by Edward Roberts, of the Exchequer; Purchased by Parliament for the sum of £4200.

This Collection extended from the Norman Conquest to the reign of George the Third. It was purchased for the Collector's heir.

(XVI)

1811. The DE BOSSET GREEK COINS.

Collected by Colonel De Bosset. Purchased by the Trustees for the sum of £800.

(XVII)

1813. The HARGRAVE LIBRARY.

Collected by Francis Hargrave. Purchased by Parliament for the sum of £5000.

[See Book II, Chapter 3.]

(XVIII)

1815. The PHIGALEIAN MARBLES.

Discovered, in 1812, amongst the ruins of Ictinus' Temple of Apollo 'the Deliverer' at Phigaleia, in Arcadia, built about B.C. 430. Purchased in 1815, for the sum of £15,000.

[See Book II, Chapter 2.]

(XIX)

1815. The VON MOLL LIBRARY and MUSEUM.

Collected by the **Baron Von Moll** (Died . . .).
Purchased (at Munich) for the sum of £4768 (including the contingent expenses), out of the Fund bequeathed by **Major Edwards**.

The Library of Baron VON MOLL comprised nearly 20,000 volumes, and a considerable Collection of Portraits and other Prints. His Museum consisted of an extensive Herbarium and a Collection of Minerals. The purchase was completed in 1816.

(XX)

1816. The BEROLDINGEN FOSSILS.

Acquired by *purchase*; and the only considerable acquisition, made in this department, between BRANDER's gift of Fossils (gathered from the London Clay) in 1766, and the purchase of HAWKINS' fine Collection, in 1835.

(XXI)

1816. The ELGIN MARBLES.

Collected, under firman of the Ottoman Porte, between the years 1801 and 1810—and chiefly in the years 1802 and 1803—by **Thomas Bruce, Earl of Elgin** (Died 14 October, 1841). *Purchased* by Parliament in 1816 for the sum of £35,000.

[See Book II, Chapter 2.]

(XXII)

1816. The MONTAGU ZOOLOGICAL COLLECTIONS.

Collected by **Colonel George Montagu** (Died

20 June, 1815); and arranged, as a Museum of British Zoology—and especially of Ornithology—at Knowle, in Devonshire. *Purchased* at a cost of £1100.

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TION.

(XXIII)

1818. The BURNET LIBRARY.

Collected by **Dr. Charles Burney** (Died 28 December, 1817). *Purchased* by a Parliamentary vote for the sum of £13,500.

[See BOOK II, Chapter 3.]

(XXIV)

1818. MRS. BANKS' ARCHÆOLOGICAL COLLECTIONS.

Collected by **Mrs. S. S. Banks**, and by **Lady Banks**; comprising a valuable series of coins, medals, prints, &c., and *presented* to the Museum by the Survivor.

(XXV)

1823—1825. The KING'S LIBRARY.

Collected by **King George the Third** (Died 1820); inherited by King George the Fourth, and by him transferred, on terms, to the British Museum.

[See BOOK II, Chapter 4.]

(XXVI)

1824. The PAYNE-KNIGHT CABINETS, LIBRARY, and MUSEUM.

Collected by **Richard Payne Knight** (Died 24 April, 1824), a Trustee; comprising Marbles, Bronzes, Vases, Prints, Drawings, Coins, Medals, and Books. *Bequeathed* by the Collector.

[See BOOK II, Chapter 3.]

(XXVII)

1825. The PERSEPOLITAN MARBLES.

[See Book II, Chapter 2.]

(XXVIII)

1825. The ORIENTAL COLLECTIONS of CLAUDIUS JAMES RICH.

Claudius Rich was British Consul at Bagdad (Died 5 Oct., 1821). He made an extensive gathering of Persian, Turkish, Syriac, and Arabic MSS., and of Coins, &c. These were purchased by a Parliamentary vote.

(XXIX)

1825. SIR RICHARD COLT HOARE'S ITALIAN LIBRARY.

Given, by the Collector, in 1825, and subsequently increased, by another gift.

[See Book II, Chapter 3.]

(XXX)

1827. The BANKSIAN LIBRARY, HERBARIA, and MUSEUM.

Collected by **Sir Joseph Banks**, P.R.S. (Died 19 June, 1820), and a Trustee. *Bequeathed* by the Collector, with a prior life interest, to **Robert Brown** (Died 1858); and by him *transferred* to the British Museum in 1827.

Sir Joseph's botanical Collections included the Herbaria, severally, of **Cliffort**; of **Clayton** (the basis of the '*Flora Virginica*'); of **John Baptist Fusée d'Aublet** (Died 6 May, 1728); of **Nicholas Joseph Jacquin**, author of the '*Flora Austriaca*' (Died 24 October, 1817); and of **Philip Miller**, author of '*The Gardener's Dic-*

tionary' (Died 18 December, 1771); with portions of the Collections of **Tournefort**, **Hermann**, and **Loureiro**.

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TION.

(XXXI)

1829. The HARTZ-MOUNTAINS MINERALS.

Collected at various periods and by several mineralogists. This fine Cabinet was for a considerable period preserved at Richmond. *Presented* by **King George the Fourth**.

(XXXII)

1829. The EGERTON MANUSCRIPTS.

Collected by **Francis Henry Egerton, Earl of Bridgewater** (Died 11 February, 1829). *Bequeathed* by the Collector; together with a sum of £12,000, to be invested, and the yearly income to be applied for further purchases of MSS. from time to time; and with other provision towards the salary of an 'Egerton Librarian.'

[See BOOK II, Chapter 5.]

(XXXIII)

1831. The ARUNDELIAN MANUSCRIPTS.

Collected, between the years 1606 and 1646, by **Thomas Howard, Earl of Arundel**, &c. (Died 4 Oct., 1646); *Given* in 1681 by his eventual heir, **Henry Howard**, Esquire (afterwards XIIth Duke of Norfolk—Died in 1701), and at the request of John Evelyn, to the Royal Society; *Transferred* by the Council of that Society, in 1831,—partly by purchase, and partly by exchange—to the Trustees of the British Museum. The Collection includes the bulk of the Library of **Bilibald Pirckheimer**, purchased at Nuremberg, by LORD ARUNDEL, in 1636.

[See BOOK I, Chapter 4.]

*COLLECTIONS OF PICTURES BELONGING TO
THE TRUSTEES OF THE BRITISH MUSEUM,
BUT DEPOSITED IN THE NATIONAL GAL-
LERY.*

(XXXIV)

1823. The BEAUMONT GALLERY.

Collected by **Sir George Howland Beaumont** (Died 7 February, 1827); *Given* by the Collector in 1823 to the British Museum, on condition of its usufructuary retention, during his lifetime. Deposited in the National Gallery, under terms of arrangement, after the Collector's death.

(XXXV)

1830. The HOLWELL-CARR GALLERY.

Collected by the Reverend **William Holwell Carr** (Died 24 December, 1830), and by the Collector *bequeathed* to the British Museum. *Deposited* under arrangements similar to those adopted for the Beaumont Pictures in the National Gallery.

These are the primary Accession-Collections that came to the British Museum, during the first seventy years which elapsed after its public opening (January, 1759). They form a noble monument alike of the liberality and public spirit of individual Englishmen, and of the fidelity of the Trustees to the charge committed to them as a body. And the reader will hardly have failed to notice how remarkable a proportion of the most munificent of the

Benefactors of the institution were, previously to their gifts, numbered amongst its Trustees.

BOOK I,
Chap. I.
INTRODUC-
TION.

If the liberality of Parliament failed to be elicited in due correspondency—in respect either to the amount or the frequency of its grants—to that of individuals, the failure is rarely, if ever, ascribable to oversight or somnolency on the part of the Trustees. If, during the lapse of those seventy years, they obtained grants of public money which amounted, in the aggregate, to but £151,762—little more, on an average, than two thousand pounds a year—they made not a few applications to which the Treasury, or the House of Commons, refused to respond. Meanwhile, the gifts of Benefactors probably much more than trebled the public grants.

At the outset, the Museum was divided into three ‘Departments’ only: (1) *Manuscripts*; (2) *Printed Books*; (3) *Natural History*.

The acquisition, in 1801, of the Alexandrian monuments, was the first accession which gave prominence to the ‘Antiquities’—theretofore regarded as little more than a curious appendage to the Natural History Collections. Four years later came the Townley Marbles. It was then obvious that a new Department ought to be made. This change was effected in 1807. The Marbles and minor Antiquities, together with the Prints, Drawings, Coins, and Medals (formerly appended to the Departments of Printed Books and of MSS.) were formed into a separate department. Twenty years afterwards the ‘Botanical Department’ was created, on the reception of the Banksian herbaria and their appendant Collections. The division into five departments continued down to the date of the Parliamentary inquiry of 1835-36 [Book III, Chapter 1]. Soon afterwards (1837), the immediate custody of the ‘Prints and

Drawings' was severed from that of the 'Antiquities' and made a special charge. In like manner, the Department of 'Natural History' was also (1837) subdivided; but in this instance the one department became, eventually, three: (1) Zoology; (2) Palæontology; (3) Mineralogy. The two last-named divisions were first separated in 1857. How the eight departments of 1860 have become *twelve* in 1869 will be seen hereafter.

It will also, I think, become apparent that this subdivision of Departments has contributed, in an important measure, to the enlargement of the several Collections; as well as to their better arrangement, and to other exigencies of the public service.

We have now to enumerate the more salient and important among the many successive acquisitions of the last forty years. Taken collectively, they have so enlarged the proportions of the national repository as to make the 'British Museum' of 1831 seem, in the retrospect, as if, at that time, it had been yet in its infancy.

In 1831 there were still living—here and there—a few ancient Londoners whose personal recollections extended over the whole period during which the Museum had existed. One or two of them could, perhaps, still call to mind something of the aspect which the gaily painted and decorated rooms of old Montagu House presented when—as children—they had been permitted to accompany some fortunate possessor of a ticket of admission to 'see the curiosities;' and were hurried by the Cerberus in charge for the day from room to room; the Cerberus aforesaid (unless his memory has been libelled) seeming to count the minutes, if a visitor chanced to show the least desire for a closer inspection of anything which caught his eye. And,

in some points—although certainly not in that point—the Museum of 1831 was not very greatly altered, much as it had been enlarged, from the Museum of 1759. Cerberus had long quitted his post; but many portions of the Collections he had had in charge retained their wonted aspect, much as he had left them.

BOOK I.
Chap. I.
INTRODUC-
TION.

Such octogenarian survivors—if endowed with a good memory—would see, in their latest visits to Great Russell Street much more to remind them of what they had seen in the first, than a new visitor of 1831 could now see,—in 1869,—were he, in his turn, striving to recall the impressions of *his* earliest visit.

The period now to be briefly outlined—in order to a fair preliminary view of our subject—is marked, like that of 1759-1831, by continued munificence on the part of private donors; but it is also marked—unlike that—by some approach towards proportionate liberality from the keepers of the public purse; as well as by energetic and persistent efforts for internal improvement, on the part both of Trustees and of Officers. It forms a quite new epoch. It may be said, unexaggeratedly, to have witnessed a re-foundation of the Museum, in almost everything that bears on its direct utility to the public.

In regard to this last period, however—no less than in regard to the foregoing one—only the more salient Collections can here be enumerated. Many minor ones have been passed over already, notwithstanding their intrinsic value. Many others—equally meriting notice, were space for it available—will have, in like manner, to be passed over now.

CLASS III.—**Recent Accession-Collections.**
1833—1869.

(XXXVI)

1833. The **BORELL** CABINET of GREEK and ROMAN COINS.

Collected by the late **H. P. Borell**, of Smyrna. *Purchased* by the Trustees for £1000.

(XXXVII)

1834. **SAMS'** COLLECTION of EGYPTIAN ANTIQUITIES.

Collected by **Joseph Sams**. *Purchased*, by a Parliamentary grant, for £2500.

[See Book III, Chapter 3.]

(XXXVIII)

1834 (and subsequent years). The **HAWKINS** FOSSILS.

Collected by **Thomas Hawkins**, of Glastonbury. *Purchased*, by successive grants of Parliament, in the years 1834 and 1840.

[See Book III, Chapter 3.]

(XXXIX)

1835. The **HARDWICKE** ORNITHOLOGICAL MUSEUM.

Collected by **Major-General Hardwicke**. *Bequeathed* by the Collector.

[See Book III, Chapter 4.]

(XL)

1835. The **SALT** MUSEUM of EGYPTIAN ANTIQUITIES.

Collected by **Henry Salt**, British Consul at Alex-

andria (Died 30 October, 1827). *Purchased* (at various times) by Parliamentary grants.

BOOK I.
Chap. I.
INTRODUC-
TION.

Of Mr. Salt's successive Collections of Egyptian antiquities the most valuable portions have come to the Museum ; chiefly in the years 1823 and 1835.

[See Book III, Chapter 3.]

(XLI)

1836. The MARSDEN CABINET OF ORIENTAL COINS.

Collected by **William Marsden** (Died 6 October, 1836). *Bequeathed* by the Collector.

[See Book III, Chapter 3.]

(XLII)

1836. The SHEEPSHANKS COLLECTION OF ETCHINGS, PRINTS, &c.

Collected by **John Sheepshanks** (Died October, 1863) ; and *Given* by the Collector.

(XLIII)

1837-43. The CANINO VASES.

A selection from the superb Museum of the Prince of **Canino** (Died 29 June, 1840) ; acquired by successive purchases before and after the Collector's death.

(XLIV)

1839. The MANTELL FOSSILS.

Collected by **Gideon Algernon Mantell** (Died November 10, 1850). *Purchased* by a Parliamentary grant.

[See Book III, Chapter 4.]

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(XLV)

1841-1847. SYRIAC MANUSCRIPTS from the NITRIAN MONASTERIES.

Collected by the Reverend **Henry Tattam** and by **M. Pachot**. *Purchased* by the Trustees, by three successive bargains, in the years 1841-1847.

[See Book III, Chapter 3.]

(XLVI)

1842. The HARDING PRINTS and DRAWINGS.

Purchased, for the Trustees, by selection at the Collector's sale. The selection comprised 321 very choice specimens of early German and Italian masters; and was acquired for the sum of £2390.

(XLVII)

1843. The RAPHAEL MORGHENS PRINTS.

Purchased by the Trustees, by a like selection, at a public sale in 1843.

(XLVIII)

1845. The LYCIAN or XANTHIAN MARBLES.

Discovered by **Sir Charles Fellowes** (Died 1850) in the years 1842—1844. *Transferred* to the Museum at the cost of the Trustees in 1845.

[See Book III, Chapter 3.]

(XLIX)

1847. The GRENVILLE LIBRARY.

Collected by the Right Hon. **Thomas Grenville** (Died 17 December, 1846). *Bequeathed* by the Collector.

[See Book III, Chapter 2.]

(I.)

1847. The MICHAEL HEBREW LIBRARY.

Collected by **H. J. Michael**, of Hamburg. *Purchased* by the Trustees from his Executors.

[See Book III, Chapter 4.]

BOOK I,
Chap. I.
INTRODUCTION.

(LI)

1847. JOHN ROBERT MORRISON'S CHINESE LIBRARY.

Collected by **J. R. Morrison** (son of the eminent Christian Missionary and Lexicographer—Died 1843). *Purchased* from his Executors by a Parliamentary grant.

[See Book III, Chapter 4.]

(LII)

1848. The CROIZET FOSSIL-MAMMALS.

Collected by **M. Croizet** in Auvergne. *Purchased* by the Trustees.

(LIII)

1851-1860. The ASSYRIAN ANTIQUITIES.

Partly *discovered* by **Austen Henry Layard**. Excavated at the public charge, and under the joint direction of the Trustees of the British Museum and of the Secretary of State for Foreign Affairs, in 1851 and subsequent years by the Discoverer, and by **H. Rassam**, and **W. K. Loftus**.

[See Book III, Chapter 3.]

(LXII)

1860. The ALLAN-GREG CABINET of MINERALS.

Collected, mainly, by **R. H. Greg**, of Manchester.
Purchased by the Trustees.

[See BOOK III, Chapter 4.]

(LXIII)

1860. The GARDNER HERBARIUM of BRAZIL.

[See BOOK III, Chapter 4.]

(LXIV)

1860. The CYRENE MARBLES.

Discovered, and excavated by Lieutenants **R. M. Smith** and **Porcher**, under firmans from Constantinople, and at the charge of the Trustees, in 1860 and subsequent years.

[See also No. LXVI under the year '1863,' and
BOOK III, Chapter 3.]

(LXV)

1862. The HAEBERLEIN FOSSILS.

Collected by **Haeberlein**. Brought from Solenhofen;
and *Purchased* by the Trustees.

(LXVI)

1863. The SICILIAN ANTIQUITIES.

Discovered and excavated by **George Dennis** (Her Majesty's Consul at Benghazi), under direction from the Foreign Office, in 1862 and subsequent years. *Presented* by **Earl Russell**.

(LXVII)

BOOK I,
Chap. I.
INTRODUC-
TION.

1863. The BOWRING COLLECTION of FOREIGN IN-
SECTS.

*Collected by John Bowring. Presented by the
Collector.*

The Collector obtained a large portion of this fine Cabinet of Entomology during his own travels in India, Java, and China. It consists chiefly of Coleopterous insects.

(LXVIII)

1864. The WIGAN CABINET of COINS.

Collected and Presented by Edward Wigan.
[See Book III, Chapter 3.]

(LXIX)

1864. The RHODIAN MARBLES.

Excavated, at the charge of the Trustees, by MM. Salzmänn and Biliotti, in 1863 and subsequent years.

(LXX)

1864. The CURETON ORIENTAL MANUSCRIPTS.

Collected by the late William Cureton, D.D. (Died 17 June, 1864). Purchased by the Trustees from his Executors.

[See Book III, Chapter 3.]

(LXXI)

1864. The WRIGHT HERBARIUM of CUBA and NEW MEXICO.

[See Book III, Chapter 4.]

(LXXII)

1864. The TRISTRAM CABINET of the ZOOLOGY of the HOLY LAND.*Collected* by the Reverend **H. B. Tristram, M.A.**
Presented by the Collector.

[See Book III, Chapter 4.]

(LXXIII)

1865. The HEBREW LIBRARY of ALMANZI.*This valuable series of Hebrew Manuscripts, &c. was collected by the late Joseph Almanzi, of Padua; and was purchased by the Trustees of his Executors.*

[See Book III, Chapter 4.]

(LXXIV)

1865. The ERSKINE ORIENTAL MANUSCRIPTS.*Collected by William Erskine, during his residence in India. Purchased by the Trustees.*

[See Book III, Chapter 4.]

(LXXV)

1865. The MALCOLM PERSIAN MANUSCRIPTS.*Collected by Sir John Malcolm (Died 31 May, 1840) during his Embassy to Persia. Purchased by the Trustees.*

[See Book III, Chapter 4.]

(LXXVI)

1865. The KOKSCHAROW MINERALS.*Collected by General de Kokscharow. Purchased by the Trustees.*

[See Book III, Chapter 4.]

(LXXVII)

1865. The EPHESIAN MARBLES.

Excavated, at the charge of the Trustees, by Vice-Consul **Wood**.

[See Book III, Chapter 3.]

(LXXVIII)

1865. The CHRISTY PRE-HISTORIC and ETHNOLOGICAL MUSEUM.

Collected and Bequeathed by **Henry Christy** (Died 4 May, 1865).

[See Book III, Chapter 4.]

(LXXIX)

1865. The BANK of ENGLAND CABINET of COINS and MEDALS.

[See Book III, Chapter 1.]

(LXXX)

1865. WITT'S ETHNIC MUSEUM.

Collected and Presented by **Henry Witt**.

[See Book III, Chapter 4.]

(LXXXI)

1866. The BLACAS MUSEUM.

Collected by the **Dukes of Blacas** (The elder Collector died in 1839; the younger, in 1865). *Purchased*, by the Trustees, of the heirs of the Survivor.

[See Book III, Chapter 4.]

BOOK I,
Chap. I.
INTRODUC-
TION.

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BIBLIOTHE-
C.

LXXXII

1866. The WOODHOUSE MUSEUM.

Collected by James Woodhouse, Her Majesty's Treasurer at Court. Died February, 1866. Bequeathed by the Collector.

[See Book III. Chapter 4.]

LXXXIII

1866. The CUMING CONCHOLOGICAL COLLECTION.

Collected by Hugh Cuming (Died 1866). Acquired by the Trustees in 1866, partly by gift, and partly by purchase, under the directions of the Collector's Will.

[See Book III. Chapter 4.]

LXXXIV

1867. The HAWKINS COLLECTION OF ENGLISH POLITICAL AND HISTORICAL PRINTS.

Collected by Edward Hawkins (Died 1867). Purchased by the Trustees.

[See Book III, Chapter 1.]

(LXXXV)

1868. The ABYSSINIAN ANTIQUITIES and MANUSCRIPTS.

Acquired by the Trustees during and after the Abyssinian War; partly by gift from the British Government, and partly by the researches of the Representative of the Trustees in the British Camp. Another and a very valuable portion of the Abyssinian Manuscripts came to the India Office, by the gift of **Lord Napier** of Magdala; and by the Secretary of State for India was given to the British Museum.

[See Book III, Chapter 4.]

(LXXXVI)

1868. The SLADE ARCHÆOLOGICAL COLLECTION.

Collected by Felix Slade (Died 1868). *Bequeathed*
by the Collector.

[See Book III, Chapter 4.]

BOOK I,
Chap. I.
INTRODUC-
TION.

(LXXXVII)

**1869. The HAYS COLLECTION of EGYPTIAN ANTI-
QUITIES.**

[See Book III, Chapter 4.]

As I have had occasion to observe in a former paragraph, the preceding list is, of necessity, an abridged list. It is by no means a complete or exhaustive one. The prescribed bounds—those of a single volume for a very wide and multifarious subject—compel the writer to treat his subject by way of selection. The reader is solicited to keep that fact in mind; as well for its bearing on the chapters which follow, as on the introductory chapter now under his eye. And in regard both to this brief enumeration of the successive component parts of the Museum, and to the biographical notices of which it is the preliminary, the cautionary remark here repeated applies to *every* Department of the national repository. It holds good of the Natural History Collections, and of the Collections of Antiquities, no less than of the Collections of Printed Books and of Manuscripts.

Among the many minor, but intrinsically important, Collections thus—compulsorily—passed over, in the present volume, are some of which brief notices have been given (by the same hand) in a preceding work, published in 1869. Those 'Notices,' however, relate exclusively to

collectors and collections of Printed Books, of Engravings, of Drawings, and of Manuscripts. Thus,—to give but a few examples,—important collections, now forming part of the British Museum, and gathered originally by **Thomas Rymer** (1713); **Thomas Madox** (1733); **Brownlow Cecil, Earl of Exeter** (1739); **David Garrick** (1779); **Peter Lewis Ginguene** (1816); the **Abate Canonici** (*circa*, 1818); **John Fowler Hull** (1825); **Frederick North**, sixth **Earl of Guildford** (1826); **Count Joseph de Puisaye** (1827); the **Marquess Wellesley** (1842); **D. E. Davy** (*circa* 1850),—are all noticed in an Appendix headed ‘Historical Notices of Collectors’ to the volume entitled ‘*Free Town Libraries*’ published in 1869. Of that Appendix the notices above referred to form, respectively, Nos. ‘848’ (*Rymer*); ‘570’ (*Madox*); ‘186’ (*Cecil*); ‘351’ (*Garrick*); ‘372’ (*Ginguené*); ‘165’ (*Canonici*); ‘462’ (*Hull*); ‘683’ (*North*); ‘781’ (*Puisaye*); ‘1049’ (*Wellesley*); and ‘249’ (*Davy*).

The existing constitution of the Board of Trustees of the British Museum has been on many occasions, and by several writers, somewhat freely impugned. More than once it has been the subject of criticism in the House of Commons. With little alteration that Board remains, in 1869, what Parliament made it in 1753. Obviously, it might be quite possible to frame a new governing Corporation, in a fashion more accordant with what are sometimes called the ‘progressive tendencies’ of the period.

But I venture to think that the bare enumeration of the facts which have now been briefly tabulated, in this introductory chapter, gives a proof of faithful and zealous administration of a great trust, such as cannot be gainsaid

by any the most ardent lover of innovation. Both the Collections given, and the Collections purchased, afford conclusive and splendid proofs that the Trustees and the Officers have alike won the confidence and merited the gratitude of those whose acquirements and pursuits in life have best qualified them to give a verdict on the implied issue.

BOOK I,
Chap. I.
INTRODUCTION.

If, of late years, the public purse has been opened with somewhat more of an approach to harmony with the open-handedness of private Englishmen, that result is wholly due to unremitting effort on the part both of the Trustees who govern, and of the Officers who administer, or have administered, the British Museum. And, to attain their end, both Trustees and Officers have, very often, had to fight hard, as the later chapters of this volume will more than sufficiently show.

CHAPTER II.

THE FOUNDER OF THE COTTONIAN LIBRARY.

"Est in hac urbe nobilis Eques, hunc generis hunc
vetustatis et rebus historicis, acie pectus, acie recensita,
studiosissimus, qui ex ipso monumentis publicis et epistolis
discreta regimini Angliæ et Scotiæ veritas curam quæ quæ
sunt, instituit. Adhuc, et jam regis jam studium componit,
discretus et ordinat."

CASAREUS DE PE DENT, London, 5 Kal. Mart., MDII.
Æpistolæ, 173.

*The Personal and Public Life of Sir Robert COTTON.—
His Political Writings and Political Persecutions.—
Sources and Growth of the Cottonian Library.—The
Successors of Sir Robert COTTON.—History of the
Cottonian Library, until its union with the Manuscript
Library of Harley, and with the Museum and Miscel-
laneous Collections of SLOANE.—Review of some recent
Aspersions on the Character of the Founder.*

OK I,
up. II.
'E OF
ROBERT
TTON.

SIR ROBERT COTTON was the eldest son of Thomas COTTON of Conington and of Elizabeth SHIRLEY, daughter of Francis SHIRLEY of Staunton-Harold in Leicestershire. He was born on the 22nd of January, 1570, at Denton, in the county of Huntingdon. Denton was a sort of jointure-house attached to that ancient family seat of Conington, which had come into the possession of the Cottons, about the middle of the preceding century, by the marriage of

William COTTON with Mary WESENHAM, daughter and heir of Robert WESENHAM, who had acquired Conington by his marriage with Agnes BRUCE.*

BOOK I,
Chap. II.
LIFE OF
SIR ROBERT
COTTON.

The Cottons of Conington were an offshoot of the old Cheshire stock. They held a good local position in right of their manorial possessions both in Huntingdonshire and in Cambridgeshire, but they had not, as yet, won distinction by any very conspicuous public service. Genealogically, their descent, through Mary WESENHAM, from Robert BRUCE, was their chief boast. Sir Robert was to become, as he grew to manhood, especially proud of it. He rarely missed an opportunity of commemorating the fact, and sometimes seized occasions for recording it, heraldically, after a fashion which has put stumbling-blocks in the way of later antiquaries. But the weakness has about it nothing of meanness. It is not an unpardonable failing. And with the specially antiquarian virtues it is not less closely allied than with love of country. In days of court favour, JAMES THE FIRST was wont to please Sir Robert Cotton by calling him cousin. Sir Robert's descendants became, in their turn, proud of his personal celebrity, but they too were, at all times, as careful to celebrate, upon the family monuments, their Bruce descent, as to claim a share in the literary glories of the 'Cottonian Library.'

PARENTAGE
AND ANCES-
TRY OF
SIR ROBERT
COTTON.

This cousinship with King James—and also a matter which to Sir Robert was much more important, the descent to the Cottons of the rich Lordship of Conington with its appendant manors and members—will be seen, at a glance, by the following

* Sir Robert's father was the fourth 'Thomas Cotton of Conington,' and fifth Lord of that manor of the Cotton family. The marriage of William Cotton with the eventual heiress of the Huntingdonshire Bruces was contracted about the year 1450.

PEDIGREE OF COTTON,

EDMUND, called *Ironsides*, — — —

Edward = Agatha, Daughter of the Emperor Henry III.

MALCOLM = Margaret (Saint)

Cean-mohr, King of Scotland

DAVID, King of Scotland = Maud, daughter, and heir of Walthoef, Earl of Huntingdon.

[By this woman the Earldom of Huntingdon and the Lordship of Conington came the Crown of Scotland.—*M.S. Note Sir R. Cotton, in 'Harl. 807.'*]

Henry, = Ada, daughter of the Prince of Scotland. Earl of Warren.

William de COTTON (of Cotton, in Cheshire).

David, = Margaret, daughter Earl of Huntingdon and Angus, Lord of Conington. and heir of Ralph, Earl of Chester.

Robert BRUCE, = Isabel, heiress of Lord of Conington (jure uxoris). Conington.

William de COTTON (of Hampetall-Ridware in Staffordshire).

Robert BRUCE, Earl of Carrick, Competitor for the Crown of Scotland.

Sir Bernard de BRUCE, Lord of Conington ['by the gift of his Mother, 37 Henry III.—*Sir R. Cotton's Note in M.S. Harl.*]

ROBERT = King of Scotland.

DAVID, King of Scotland.

Marjory BRUCE = Walter STUART.

ROBERT (Stuart) II, King of Scotland.

William de of Richard stall Rid-Battle of

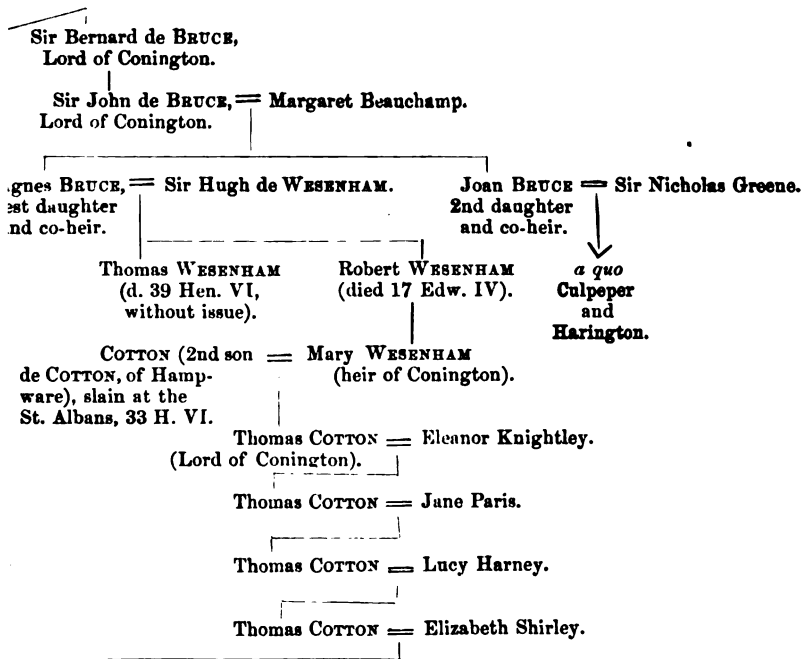
JAMES I, King of Scotland.

JAMES VI, of Scotland, and I, of Britain.

[From the COTTON ROLL XIV, 6 [by SMOOR, CAMDEN, and ST. GEORGE]; compared with M.S. Harl. 807, fol. 96, and with M.S. LANSD., 863, containing the Heraldic Collections of R. ST. GEORGE, Norroy, Vol. III, fol. 82 verso.]

OF CONINGTON.

--King of England.



SIR ROBERT (BRUCE) COTTON,
Knight and Bart., Lord of Conington, &c., and
FOUNDER OF THE COTTONIAN LIBRARY (Born
1570; Died 6 May, 1631).

[For the continuation of the COTTON PEDIGREE, showing (1) the descent from Sir Robert of the subsequent possessors of the COTTONIAN LIBRARY, up to the date of the gift to the Nation made by Sir John Cotton, and (2) the relationship of the Cottonian Trustees of the British Museum, see the concluding pages of the present Chapter.]

BOOK I,
chap. II.
LIFE OF
SIR ROBERT
COTTON.

COTTON'S
EARLY
FRIEND-
SHIPS.

Robert COTTON was educated at Trinity College in Cambridge, where he took the degree of B.A. towards the close of 1585.* Of his collegiate career very little is discoverable, save that it was an eminently studious one. Long before he left Trinity, he had given unmistakeable proofs of his love for archæology. Some among the many conspicuous and lifelong friendships which he formed with men likeminded took their beginnings at Cambridge, but most of them were formed during his periodical and frequent sojourns in London. John JOSCELINE, William DETHICK, Lawrence NOWELL, William LAMBARDE, and William CAMDEN were amongst his earliest and closest friends. Most of them were much his seniors. Whilst still in the heyday of youth he married Elizabeth BROCAS, daughter and eventually coheir of William BROCAS of Thedingworth in Leicestershire. Soon after his marriage he took a leading part in the establishment of the first Society of Antiquaries.

* Here, if we accepted Cotton's authorship of the *Twenty-four Arguments, whether it be more expedient to suppress Popish Practices, &c.*, published in the *Cottoni Posthuma*, by James Howell, we should have to add that 'he travelled on the Continent and passed many months in Italy.' But that tract is *not* Cotton's—though ascribed to him by so able and careful an historian as Mr. S. R. Gardiner (*Archæologia*, vol. xli. Comp. *Prince Charles and the Spanish Marriage, &c.*, vol. i, p. 32). That its real author was in Italy is plain, from his own statement 'I remember that in Italy it was often told me,' &c.; and, again: 'In Rome itself I have heard the English fugitive taxed,' &c., *Posthuma*, pp. 126, seqq. Dr. Thomas Smith put a question as to this implied visit of Sir Robert to Italy to his grandson, Sir John Cotton, who assured him that no such visit was known to any of the family; by all of whom it was believed that their eminent antiquary never set foot out of Britain. Smith's words are these:—

. 'D. Joannes Cottonus hac de re a me literis consultus, se de isthoc avi sui itinere Italico ne verbum quidem a Patre suo edoctum fuisse respondit. Cottonum usum et cognitionem linguæ Italicæ a Joanne Florio anno 1610 addidicisse ex ejusdem literis ad Cottonum scriptis, mihi certo constat.' *Vita*, p. xvii.

Some of COTTON's fellow-workers in the Society are known to all of us by their surviving writings. Others of them are now almost forgotten, though not less deserving, perhaps, of honourable memory ; for amongst these latter was—

BOOK I,
CHAP. II.
LIFE OF
SIR ROBERT
COTTON.

‘ that good Earl, once President
Of England's Council and her Treasury ;
Who liv'd in both unstain'd with gold or fee,’

at a time when such praise could seldom be given truthfully. It was as a contributor towards the common labours of that Society that COTTON made his earliest appearance as an author. The subjects chosen for his discourses at the periodical meetings of the Elizabethan antiquarians indicate the prevalent bias of his mind. Nearly all of them may be said to belong to our political archæology.

Before the close of the sixteenth century, his collections of Manuscripts and of Antiquities had already become so large and important as to win for him a wide reputation in foreign countries, as well as at home. His correspondence indicates, even at that early period, a generous recognition of the brotherhood of literature, the world over, and proves the ready courtesy with which he had learned to bear somewhat more than his fair share of the obligations thence arising. In later days he was wont to say to his intimates : ‘ I, myself, have the smallest share in myself.’ From youth, onwards, there is abundant evidence that the saying expressed, unboastingly, the simple facts of his daily life.

GROWTH OF
THE COT-
TONIAN
LIBRARY
AND GAL-
LERY.

CAMDEN was amongst the earliest of those intimates, and to the dying day of the author of the *Britannia* the close friendship which united him with COTTON was both unbroken and undiminished. The former was still in the

FRIENDSHIP
WITH CAM-
DEN.

BOOK I,
 Chap. II.
 LIFE OF
 DR ROBERT
 OTTON.

full vigour of life when CORTON had given proof of his worthiness to be a fellow-labourer in the field of English antiquities. In 1599 they went, in company, over the northern counties: explored together many an old abbey and many a famous battle-field. When that tour was made, the evidences of the ruthless barbarism with which the mandates of HENRY THE EIGHTH had been carried out by his agents lay still thick upon the ground, and may well have had their influence in modifying some of the religious views and feelings of such tourists. Not a few chapters of the *Britannia* embody the researches of CORTON as well as those of CAMDEN; and the elder author was ever ready to acknowledge his deep sense of obligation to his younger colleague. For both of them, at this time, and in subsequent years, the storied past was more full of interest than the politics, howsoever momentous or exciting, of the day. But, occasionally, they corresponded on questions of policy as well as of history. There is evidence that on one stirring subject, about which men's views were much wont to run to extremes, they agreed in advocating moderate courses. In the closing years of the Queen, CORTON, as well as CAMDEN, recognised the necessity that the Government should hold a firm hand over the emissaries of the Church and Court of Rome, whilst refusing to admit that a due repression of hostile intrigues was inconsistent with the honourable treatment of conscientious and peaceful Romanists.

It was, in all probability, almost immediately after CORTON's return from the Archæological tour to the North which he had made with his early friend, that he received a message from the Queen. ELIZABETH had been told of his growing fame for possessing an acquaintance with the mustiest of records, and an ability 'to vouch precedents'

such as few students, even of much riper years, had attained to. He was now to be acquainted with a dispute about national precedency which had arisen at Calais between Sir Henry NEVILLE and the Ambassador of Spain. It was Her Majesty's wish that he should search the records which bore upon the question, and send her such a report as might strengthen NEVILLE's hands in his contest for the honour of England.

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COTTON.

THE TRAC-
TATE ON
ENGLISH
PRECEDENCY
OVER SPAIN.

Such a task could not fail to be a welcome one; and COTTON found no lack of pertinent evidence. The bent and habit of his mind were always methodical. He begins his abstract of the records by tabulating his argument. Precedency, he says, must have respect either to the nation or to the ruler of the nation. A kingdom must rank either (1) according to its antiquity, or (2) according to 'the eminency of the throne royal,' by which phrase he means the complete unity of the dominion under one supreme ruler. On the first title to precedency he observes that it may be based either upon the date of national independence, or upon that of the national recognition of Christianity. He claims for England that it was a monarchy at least four hundred and sixty years before Castile became one; that Christianity had then been established in it, without break or interruption, for a thousand years; whereas in Spain Christianity was 'defaced with Moorish Mahumetisme,' until the expulsion of the Moors by FERDINAND, little more than a century before the time at which he was writing.

Cottoni
Posthuma,
pp. 76, 77.

His assertion of the greater 'eminency of the throne royal' in England than in Spain is mainly founded on the union in the English sovereignty alone of supreme ecclesiastical with supreme civil power; and on the lineal descent of the then sovereign 'from Christian princes for 800 years,' whereas the descent of the Kings of Spain 'is

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chiefly from the Earls of Castilia, about 500 years since,' and the then King of Spain was 'yet in the infancy of his kingdom.'

Two minor and ancillary arguments in this tract are also notable: The Spanish throne, says COTTON, hath not, as hath the English and French, 'that virtue to endow the king therein invested with the power to heal the king's evil; for into France do yearly come multitudes of Spaniards to be healed thereof.' And he further alleges that 'absolute power of the King of England, which in other kingdoms is much restrained.' The time was to come when the close friend and fellow-combatant of ELIOT and the other framers of the great 'Petition of Right' would rank himself with the foremost in 'much restraining' the kingly power in England, and would discover ample warrant in ancient precedents for every step of the process. But, as yet, that time was afar off.

MS. Cott.
Vesp. C. xlii,
ff. 158; 160,
seqq.
(B. M.)

Immediately on the accession of King JAMES, Sir Robert COTTON greeted the new monarch with two other and far more remarkable tractates on a subject bearing closely on our relations with Spain. Their political interest, as contributions to the history of public opinion, is great. Their biographical interest is still greater. But I postpone the consideration of them until we reach a momentous crisis in Sir Robert's life on which they have a vital bearing. He also wrote,—almost simultaneously,—a much more courtier-like '*Discourse of his Majesty's descent from the Saxon Kings*,' which was graciously welcomed. In the following September he received the honour of knighthood. In JAMES' first Parliament he sat for the County of Huntingdon, in fellowship with Sir Oliver CROMWELL, uncle of the future Protector. There is no evidence that at this period

*Domestic
Correspondence*, James I.,
vol. i,
f. 8 (B. H.).
RETURNED
TO PARLIA-
MENT.

he took any active part in debate. Nor did he, at any time, win distinction as a debater. But in the labours of Committees he was soon both zealous and prominent. Two classes of questions, in particular, appear to have engaged his attention:—questions of Church discipline, and questions of administrative reform. He also assisted Bacon in the difficult attempt to frame acceptable measures for a union with Scotland.

The fame of his library and of his museum of antiquities continued to spread farther and wider. He had many agents on the Continent who sought diligently to augment his collections. His correspondence with men who were busied in like pursuits both at home and abroad increased. Much of it has survived. On that interesting point at which a glance has been cast already, its witness is uniform. He was always as ready to impart as he was eager to collect. Few, if any, important works of historical research were carried on in his day to which he did not, in some way or other, give generous furtherance. At a time when he was most busy in forming his own library, he helped BODLEY to lay the foundation of the noble library at Oxford.

Readers who can call to mind even mere fragments of that superabundant evidence which tells of the neglect throughout much of the Tudor period of the public archives of the realm, can feel little surprise that Sir Robert COTTON should have been able to collect a multitude of documents which had once been the property of the nation, or of the sovereign. Those who are most familiar with that evidence ought to be the first to remember that, under the known circumstances of the time, the presumption of honest acquisition is stronger than that of dishonest, whenever conclusive proof of either is absent. English State Papers

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Dom. Cor.
as above;
vol. xix,
pp. 37 seqq.;
vol. xxvii,
pp. 44 seqq.
(R. H.);
MS. Cott.
Jul. C., iii,
p. 10.
(B. M.)

FURTHER
GROWTH
AND SOURCES
OF THE COT-
TONIAN
LIBRARY.

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COTTON.

had passed into the possession not only of English antiquarians, but of English booksellers—and not a few of them into that of foreigners—before COTTON was born. Other considerations bearing on this matter, and tending as it seems in a like direction, belong to a later period of Sir Robert's life. There is, however, a very weighty one which stands at the threshold of his career as a collector.

ATTEMPT OF
COTTON AND
CAMDEN TO
ESTABLISH A
NATIONAL
LIBRARY.

Almost the earliest incident which is recorded of COTTON's youthful days, is his concurrence in a petition in which Queen ELIZABETH was entreated to establish a Public and National Library, and to honour it with her own name. Its especial and prime object was to be the collection and preservation, as public property, of the monuments of our English history. The proposal was not altogether new. It was a much improved revival of a project which Dr. John DEE had once submitted, in an immature form, to Queen MARY. It was the reiteration of an earnest request which had been made to Queen ELIZABETH by Archbishop PARKER, at a time when COTTON was still in his cradle. The joint petition of COTTON and CAMDEN met with as little success as had attended the entreaties of those who had taken the same path before them. The petitioners were willing to bind themselves, and others like-minded, to incur 'costs, and charges,' for the effectual attainment of their patriotic object, on the condition of royal patronage and royal fellow-working with them in its pursuit. When COTTON, upon bare presumptions, is charged to be an embezzler of records, this Petition comes to have a very obvious relevancy to the matter in question. The relevancy is enhanced by the fact that two, at least, of those who had (at various times) concurred in promoting its object, gave to the Library of their fellow-labourer in the field of antiquity, manuscripts and records which, had the issue of their project been

Petition, &c.
(undated) in
Cotton MS.
Faustina,
E. V., ff. 67,
68.

otherwise, they would have given to the 'Public Library of Queen ELIZABETH,' in express trust for their fellow-countrymen at large.

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COTTON.

Indirectly, this same petition has also its bearing on a curious passage relating to Sir Robert COTTON which occurs among the Minute-books of the Corporation of London, and which has recently been printed by Mr. RILEY, in his preface to *Liber Custumarum*.

On the 10th of November, 1607, the Court of Aldermen of London recorded the following minute: 'It is this day ordered, that Mr. Chamberlain, Mr. Town Clerk, Mr. EDMONDS, and Mr. Robert SMITH, or any three of them, shall repair to Sir Robert COTTON, from this Court, and require him to deliver to the City's use three of the City's books *which have been long time missing*—the first book called *Liber Custumarum*; the second, called *Liber Legum Antiquorum*; and the thirde, called *Fletewode*, which are affirmed to be in his custody.' Of the results of the interview of Master Chamberlain and his fellow-ambassadors with COTTON no precise account has been preserved. It is plain, however, from the sequel, that they found the matter to be one for which such extremely curt 'requisition' was scarcely the appropriate mode of setting to work. The Corporation appealed in vain to the Lord Privy Seal NORTHAMPTON; and they had afterwards to solicit the mediation with COTTON of two of their own members—Sir John JOLLES and another—who were personally known to him. Their interposition was alike ineffectual. Of the interview we have no report; but Sir Robert, it is clear, asserted his right to retain the City books (or rather portions of books) which were then in his hands, and he did retain them. They now form part of the well-known and very valuable Cottonian MS., 'Claudius D. XI.'

COTTON AND
THE CITY
RECORDS OF
LONDON.

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That these London records had once belonged to the citizens is now unquestioned. That Cotton—both in 1607 and again in the following year—asserted a title, of some sort, to those of them which were then in his hands, seems also to be established. Is the fair inference this: ‘Their then holder, in 1607, had obtained them wrongfully, and he persisted, despite all remonstrance, in his wrongful possession’? Is it not rather to be inferred that, whosoever may have been the original wrongdoer, Sir Robert Cotton had acquired them by a lawful purchase? If that should have been the fact, he may possibly have had a valid reason for declining to give what he had, ineffectually and rudely, been commanded to restore.

THE DIS-
PUTE ABOUT
CITY
RECORDS.

On the other hand, it is impossible to defend Sir Robert’s occasional mode of dealing with MSS.,—some of which, it is plain, were but lent to him,—when, by misplacement of leaves, or by insertions, and sometimes by both together, he confused their true sequence and aspect. Of this unjustifiable manipulation I shall have to speak hereafter.

The years which followed close upon this little civic interlude were amongst the busiest years of Cotton’s public life. He testified the sincerity of his desire to serve his country faithfully, by the choice of the subjects to the study of which he voluntarily bent his powers.

COTTON’S
MEMORIAL
ON ABUSES
IN THE
NAVY.

Abuses in the management of the navy and of naval establishments have been at most periods of our history fruitful topics for reformers, competent or other. In the early years of JAMES there was a special tendency to the increase of such abuses in the growing unfitness for exertion of the Lord High Admiral. NOTTINGHAM had yet many years to live,—near as he had been to the threescore and ten when the new reign began. But even his large

appetencies were now almost sated with wealth, employments, and honours; and ever since his return from his splendid embassy to Spain, he seemed bent on compensating himself for his hard labour under ELIZABETH by his indolent luxury under JAMES. The repose of their chief had so favoured the illegitimate activities of his subordinates, that when COTTON addressed himself to the task of investigating the state of the naval administration he soon found that it would be much easier to prove the existence and the gravity of the abuses than to point to an effectual remedy.

The abuses were manifold. Some of them were, at that moment, scarcely assailable. To COTTON, in particular, the approach to the subject was beset with many difficulties. He was, however, much in earnest. When he found that some of the obstacles must, for the present, be rather turned by evasion than be encountered—with any fair chance of success—by an open attack in front, he betook himself to the weaker side of the enemy. He obtained careful information as to naval account-keeping; discovered serious frauds; and opened the assault by a conflict with officials not too powerful for immediate encounter,—though far indeed from being unprotected.

Of Sir Robert's *Memorial* to the King, I can give but one brief extract, by way of sample: 'Upon a dangerous advantage,' he writes, 'which the Treasurer of the Navy taketh by the strict letter of his Patent, to be discharged of all his accounts by the only vouchee and allowance of *two* chief officers, it falls out, strangely, at this time—by the weakness of the Controller and cunning of the Surveyor—that these two offices are, in effect, but *one*, which is the Surveyor himself, who—joining with the Treasurer as a Purveyor of all provisions—becomes a paymaster to himself . . . at such rates as *he* thinks good.' It is a suggestive statement.

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THE INQUIRY
INSTITUTED
BY COTTON
INTO ABUSES
IN THE
ROYAL
NAVY.

Cotton,
*Memorial on
Abuses of the
Navy:—
Domestic
Corresp.
James I.*
vol. xli, p. 21.
(R. H.).

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COTTON.

COMMISSION
OF INQUIRY
THE
USERS IN
THE NAVY.

COTTON's most intimate political friendships were at this time with the HOWARDS. Henry HOWARD (now Earl of Northampton),—whatever the intrinsic baseness and perfidy of his nature, was a man of large capacity. He was not unfriendly to reform,—when abuses put no pelf in his own pocket. To naval reforms, his nearness of blood to NOTTINGHAM, the Lord High Admiral, tended rather to predispose him; for when near relatives dislike one another, the intensity of their dislike is sometimes wonderful to all bystanders. Interest made these two sometimes allies, but it never made them friends. NORTHAMPTON gave his whole influence in favour of Sir Robert's plan. He began the inquiries into this wide subject by persuading the King to appoint a Commission. On the 30th of April, 1608, Letters Patent were issued, in the preamble of which the pith of the Memorial is thus recited: 'We are informed that very great and considerable abuses, deceits, frauds, corruptions, negligences, misdemeanours and offences have been and daily are perpetrated . . . *against the continual admonitions and directions of you, our Lord High Admiral*, by other the officers of and concerning our Navy Royal, and by the Clerks of the Prick and Check, and divers other inferior officers, ministers, mariners, soldiers, and others working or labouring in or about our said Navy;' and thereupon full powers are given to the Commissioners so appointed to make full inquiry into the allegations; and to certify their proceedings and opinions. COTTON was made a member of the Commission, and at the head of it were placed the Earls of NORTHAMPTON and of NOTTINGHAM. It was directed that the inquiry should be carried at least as far back as the year 1598. The Admiral's share was little more than proceedings were opened on the 7th of

COTTON himself reports, an 'elegant speech was made by Lord Northampton, of His Majesty's provident and princely purposes for reformation of the abuses.' Northampton, he adds, 'took especial pains and care for a full and faithful discharge of that trust.' At his instance Sir Robert was made Chairman of a sort of sub-committee, to which the preliminary inquiries and general array of the business were entrusted; 'Sir Robert COTTON, during all the time of this service, entertaining his assistants at his house at the Blackfriars as often as occasion served.'

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*Proceedings
in the Com-
mission for
the Navy
Royal*; MS.
COTT. Julius
F. iii, fol. 1.
(B. M.)

The inquiry lasted from May, 1608, to June, 1609. COTTON was then requested by his fellow-commissioners to make an abstract of the depositions to be reported to the King. It abundantly justified the Memorial of 1608. JAMES, when he had read it, ordered a final meeting of the Commissioners to be held in his presence, at which all the inculpated officers were to attend that they might adduce whatever answers or pleas of defence might be in their power. 'In the end,' says Sir Robert, 'they were advised rather to cast themselves at the feet of his grace and goodness for pardon, than to rely upon their weak replies; which they readily did.' The most important outcome of the inquiry was the preparation of a '*Book of Ordinances for the Navy Royal*,' in the framing of which Sir Robert COTTON had the largest share. It led to many improvements. But, in subsequent years, measures of a still more stringent character were found needful.

In the next year after the presentation of this Report on the Navy, Sir Robert addressed to the King another Report on the Revenues of the Crown. The question is treated historically rather than politically, but the long induction of it is frequently enlivened by keen glances at principles and at practical results.

THE IN-
QUIRY INTO
CROWN RE-
VENUES.

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Once or twice, at least, these side glances are such as, when we now regard them, in the light of the subsequent history of JAMES's own reign and of that of his next successor, seem to have in them more of irony than of earnest. The style of the treatise is clear, terse, and pointed.

On no branch of the subject does the author go into more minute detail than on that delicate one of the historical precedents for 'abating and reforming excesses of the Royal Household, Retinue, and Favourites.' He points the moral by express reference to existing circumstances. Thus, for example, in treating of the arrangements of the royal household, he says, 'There is never a back-door at Court that costs not the king £2000 yearly;' and again, when treating of gifts to royal favourites: 'It is one of the greatest accusations against the Duke of Somerset for suffering the King [EDWARD VI] to give away the possessions and profits of the Crown in manner of a spoil.'

precedents
 the Com-
 mission for
 'Navy
 pay, &c.;
 above.

Not less plainspoken are COTTON's words about a question that was destined, in a short time, to excite the whole kingdom. Tonnage and poundage, he says, were granted simply for defence of the State, 'so they may be employed in the wars; and particular Treasurers account in Parliament' for that employment. 'They are so granted,' he adds, 'in express words; and that they proceed of goodwill, not of duty. Precedents of this nature are plentiful in all the Rolls.' A final example of this sort may be found in the pithy warning grounded upon RICHARD THE SECOND's grant to a minion of the power of compounding with delinquents. It was fatal, he says, both to the king and to his instrument. 'It grew the death of the one and the deposition of the other.'

COTTON's Report on the Crown Revenues has also an

incidental interest. Out of it grew the creation of the new dignity of baronets. Were His Majesty, says the writer, 'now to make a degree of honour hereditary as Baronets, next under Barons, and grant them in tail, taking of every one £1000, in fine it would raise with ease £100,000; and, *by a judicious election*, be a means to content those worthy persons in the Commonwealth that by the confused admission of [so] many Knights of the Bath held themselves all this time disgraced.' When this passage was written that which had been, under ELIZABETH, so real and eminent an honour as to be eagerly coveted by patriotic men, had been lavished by JAMES with a profusion which entailed their contempt and disgust. I have before me the fine old MS. from a passage in which COTTON borrowed the title of the new dignity. The word occurs thus:—'*Ceux sont les estatutz, ordenances. . . . de nre très excellent souv seigneur le Roy Richard, et Johan, Duc de Lancastre, . . . et des autres Contes, Barons, et Baronnetz, et sages Chivalers.*'

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COTTON'S
PROPOSITION
FOR THE
CREATION OF
BARONETS,
1609.

9 R. II.
Durh.
17 July, 1385.
COTTON MS.,
Nero D.,
vi, § 16.
(B. M.)

Sir Robert was himself amongst the earliest receivers (June, 1611) of the new order. Its creation led to many jealousies and discords. It gave both to the King and to his councillors not a little trouble in settling the precise privileges and precedencies of its holders. In those controversies the author of the suggestion took no very active part. King JAMES was much more anxious for the speedy receipt of the hundred thousand pounds, than about the 'judicious election' of those by whom the money was to be provided. COTTON's satisfaction with the ultimate working out of his plan must have had its large alloy.*

* The story which has been told—on the authority of one of John Chamberlain's letters to Carleton (April, 1612) that 'Sir Robert Cotton was sent out of the way' at a time when certain claims of the Baronets were to be definitively heard at the Council Board, 'in order that he

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COTTON.

Cotton to
Somerset
(undated)
MS. Harl.,
7002, f. 380.
(B. M.)

This is the more apparent, inasmuch as, at the first acceptance of his project, Sir Robert had obtained the King's distinct promise that no future creation of a baron should be made, until the new peer had first received the degree of baronet; unless he belonged to a family already ennobled. Hearing of a probability that the royal promise in this respect was likely to be broken, he wrote to Somerset:—'If His Highness *will* do it, I rather humbly beg a relinquishing in the design of the baronets, as desponding of good success.' But to James all projects for the opening of gold mines—whether at home or abroad—were much too attractive to be staved off by any puritanic scruples about pledge or promise. For him, from youth to dotage, the one thing needful was gold.

THE POLI-
TICAL INTER-
COURSE OF
SIR R.
COTTON
WITH LORD
SOMERSET.
1613-1616.

The question of the baronetcies is one of the earliest which brings us in presence of the eventful political connection which subsisted between COTTON and the Earl of SOMERSET. Of its first beginnings no precise testimony seems to have survived. But there is a strong presumption that when SOMERSET was led, by his fatal love for Lady ESSEX, to change his early position of antagonism to the HOWARDS for one of alliance and friendship, he came frequently into contact with Sir Robert, who had long been familiarly acquainted with the Earl of SUFFOLK—and also with his too well-known Countess—as well as with the Earl of NORTHAMPTON.

The one ineffaceable stigma on SOMERSET's memory might not produce records in their favour,' rests on mere rumour. Charles, Lancaster Herald, wrote to Cotton immediately before the hearing in these terms: 'On Saturday next the final determination is expected, if some troublesome spirit do not hinder; which end I wish were well made, and am glad that you are not seen in it at this time.'—Cotton MS., Julius, C. iii, f. 86.

which was brought upon him by his disgraceful marriage has barred the way to an impartial estimate of his standing as a politician. A man who was branded by his peers (though upon garbled depositions) as a murderer can scarcely, by possibility, have his pretensions to statesmanship fairly weighed in a just balance. Such testimony, it is true, as that on which SOMERSET was found guilty of the poisoning of OVERBURY would not now suffice to convict a vagrant of petty larceny. It would not indeed at this day be treated as evidence at all; it would be looked upon as a mere decoction of surmises. But the foul scandal of the marriage itself has so tainted SOMERSET's very name that historians (almost with one consent) have condoned the baseness of his prosecutors.

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COTTON.

With some of this man's contemporaries it was quite otherwise. Some English statesmen whose names we have all learnt to venerate, looked upon the murder of OVERBURY as a revengeful deed instigated by Lady SOMERSET, wholly without her husband's complicity; and they looked at SOMERSET's conviction of complicity in the crime as simply the issue of a skilfully-managed court intrigue, for a court object. They knew that SOMERSET's enemies had been wont to say amongst themselves, 'A nail is best driven out by driving in another nail,' and had, very effectually, put the proverb into action. They knew, too, that to the rising favourite the King had committed—most characteristically—the pleasing task of communicating, on his behalf, with the Crown lawyers, as their own task of compiling the depositions against the falling favourite went on from stage to stage.

Sir Robert COTTON believed not only that SOMERSET was guiltless of the murder of OVERBURY, and that the Earl's political extinction was resolved upon, as the readiest means

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of making room for a new favourite, but he also believed that SOMERSET's loss of power involved the loss by England — for a long time to come — of some useful domestic reforms, as well as its subjection to several new abuses. This belief was a favourite subject of conversation with him to his dying day. He was in the habit of imparting it to the famous men who, in the early years of the next reign, joined with him in fighting the battles of parliamentary freedom against royal prerogative. There may well have been an element of truth in COTTON's view of the matter, though, in these days, it seems but a barren pursuit to have discussed the preferability to England of the rule of a Robert CARR rather than that of a George VILLIERS.

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What is now chiefly important in the close political connection which was formed between COTTON and SOMERSET is the fact that it eventually thrust Sir Robert's fortune and entire future into great peril, even if it did not actually hazard his life itself, as well as his fair fame with posterity. The life that was preserved to him was also to be redeemed by future and brilliant public service. His fortune sustained no great damage, and much of it was afterwards spent upon public objects. His reputation as a statesman, however, suffered, and must suffer, some degree of loss. SOMERSET led him to become an agent in urging on the treaty for the marriage of Prince CHARLES with the Infanta of Spain. As it seems, his agency was — for a very brief period — even active and zealous. Neither SOMERSET nor COTTON, however, set that intercourse with GONDOMAR afoot which presently brought Sir Robert within the toils. It was pleasantly originated by the wily Spaniard himself, in the character of a *lover of antiquities*, deeply anxious to study Sir Robert's Museum, in its owner's company.

It is unfortunate for a truthful estimate of the *degree* of

discredit attachable to COTTON for this agency in promoting a scheme pregnant with dishonour to England, that little evidence of the share he took in it is now to be derived from any English source. His own extant correspondence yields very little, though it suffices to establish the fact of the agency, apart from that testimony of GONDOMAR, which will be cited presently.

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Under COTTON's own hand we have the fact that in a conversation with himself the Ambassador of Spain on one occasion held out (by way, it seems, more immediately, of inducement to the English Government to shape certain pending negotiations on other matters into greater conformity with *Spanish* counsels) the threat that, if such a course were not taken, 'turbulent spirits—of which Spain 'wanteth not—might add some hurt to the ill affairs of 'Ireland, or hindrance to the near affecting of the great 'work now in hand;' a threat which COTTON transmits to SOMERSET without rebuke or comment.

Cotton to
Somerst;
(undated)
Harleian MS.
7002, fol. 57B.
(B. M.)

Early in 1615, COTTON had an interview with GONDOMAR in relation to the progress of the marriage negotiation in Spain. Of what passed at this interview we have no *detailed* account other than that which was sent to the King of Spain by his Ambassador. The way in which COTTON's name is introduced, and the singular misstatement that he had the custody of 'all the King's archives,' seem to imply that GONDOMAR had still but little knowledge of the messenger now employed by JAMES and by SOMERSET to confer with him. Throughout, the reader will have to bear in mind that the narrative is GONDOMAR's, and that all the material points of it rest upon his sole authority.

'The King and the Earl of SOMERSET,' writes the Ambassador, 'have sent in great secrecy by Sir Robert COTTON—who is a gentleman greatly esteemed here, and

1615.
April 18.

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COTTON.

with whom the King has deposited all his archives—to tell me what Sir John DIGBY has written about the marriage of the Infanta with this Prince. COTTON informed me that he was greatly pleased that the negotiation had been so well received in Spain, because he desired its conclusion and success. He enlarged upon the conveniencies of the marriage, but said that the King considered DIGBY not to be a good negotiator, because he was a great friend of the Archbishop of Canterbury, and of the Earl of PEMBROKE, who were of the Puritan faction, and was in correspondence with them.' . . . 'In order to make a beginning,' continued COTTON, as GONDOMAR reports his conversation, 'the King must beg your Majesty to answer three questions: (1.) "Does your Majesty believe that with a safe conscience you can negotiate this marriage?" (2.) "Is your Majesty sincerely desirous to conclude it, upon conditions suitable to both parties?" (3.) "Will your Majesty abstain from asking anything, in matters of Religion, which would compel him to do that which he cannot do without risking his life and his kingdom; contenting yourself with trusting that he will be able to settle matters quietly?" When an answer is given to these questions he will consider the matter as settled, and will immediately give a commission to the Earl of Somerset to arrange the points with me. 'This Sir Robert COTTON is held here, by many, to be a Puritan, but he told me that he was a Catholic, and gave me many reasons why no man of sense could be anything else.' He afterwards adds: 'Sir Robert COTTON, who has treated with me in this business, tells me that after the marriage is agreed upon, [and] before the Infanta arrives in England, matters of Religion will be in a much improved condition.' The writer of this remarkable despatch, it may be well to mention, had asserted with

Gardiner
Transcripts
of Simancas
MSS.
See also S. R.
Gardiner, in
*Letters of
Gondomar,
giving an Ac-
count of the
Affairs of the
King of
Spain*,
vol. vi.

equal roundness, but a few months before, that JAMES himself had said, at the dinner-table: 'I have no doubt that the Roman Catholic Church is the true Church.'

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Nor is it unimportant, as bearing on the *degree* of credibility to be assigned to GONDOMAR's despatches, when they chance to be uncorroborated,—to remark that a despatch addressed by him to the Duke of LERMA, in November, contains an express contradiction of an assertion addressed to PHILIP, in the preceding April. To the King, as we have just seen, he narrates COTTON's communication of despatches written by DIGBY. To the Minister he writes, six months later, that 'a traitor had given information' against COTTON, for communicating Papers of State to the Spanish Ambassador, and that the charge is 'false.' Discrepancies like this (howsoever easily explained, or explainable) suffice to show that GONDOMAR's testimony, when unsupported, needs to be read with caution; and of such discrepancies there are many. Consummate as he was in diplomatic ability of several kinds, this able statesman was nevertheless loose (and sometimes reckless) in assertion. He was very credulous when he listened to welcome news. It is impossible to study his correspondence without perceiving that to him, as to so many other men, the wish was often father of the thought.

Simancas
MSS. 2590,
10 (Gardiner
Transcripts).

On the 22nd of June, Sir Robert paid another visit to GONDOMAR. He told me, says the Ambassador, that the King's hesitations had been overcome; that JAMES was now willing to negotiate on the basis of the Spanish articles, with some slight modifications; that Somerset had taken his stand upon the match with Spain, had won the co-operation of the Duke of Lennox, and was now willing to stake his fortunes on the issue. Sir Robert COTTON, adds GONDOMAR, 'assured me of his own satisfaction at the turn

Simancas
MS. 2534, 61
(Gardiner
Transcripts).

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which things had taken, as he had no more ardent wish than to live and die an avowed Catholic, like his fathers and ancestors.* Whereupon I embraced him, and said that God would guide.'

SIR ROBERT
COTTON'S
ACCOUNT OF
THE FIRST
INTERVIEW
WITH COUNT
GONDOMAR.

Thus far, I have, advisedly, followed a Spanish account of English conversations. Although believing that there exists, already ample, evidence (both in our own archives and elsewhere) for bringing home to the Count of GONDOMAR wilful misstatements of fact—in the despatches which he was wont to write from London—as well as very pardonable misapprehensions of the talk which he reports, I have preferred to put before the reader the Ambassador's own story in its Spanish integrity.

The mere fact, indeed, that an English historian†, deservedly esteemed for his acute and painstaking research, as well as for his eminent abilities, has honoured GONDOMAR's story by endorsing it, is warrant enough for citing these

* 'Tambien me dijo que el Conde de Somerset havia puesto todo su resto en este negocio, y ganado el Duque de Lenox, . . . aventurandose el Conde . . . a ganarse y asegurarse si se hazia, o a perderse si no se hacia; concluyendo esta platica el Coton con decirme que el estava loco de contento de ver esto en este estado, porque no pretendia ni desseava otra cosa mas que vivir y morir publicamente Catolico, como sus padres y abuelos lo havian sido.'—*Gardiner Transcripts of MSS. at Simancas*, vol. i, p. 102 (MS.).

† Mr. S. R. Gardiner. His account is contained in the able paper entitled *On Certain Letters of the Count of Gondomar giving an Account of the Affair of the Earl of Somerset*, read to the Society of Antiquaries in 1867. Comp. the same historian's *Prince Charles and the Spanish Marriage* (Vol. I, c. 1, and especially the passage beginning 'Sarmiento was surprised by a visit from Sir Robert Cotton,' and so on). In these pages I use Sarmiento's subsequent title of 'Gondomar,' simply because English readers are more familiar with it than with the Spaniard's family name. Mr. Gardiner needlessly deepens the stain on Cotton's memory, arising—all allowance duly made—out of this intercourse with Gondomar, by the remark that 'twenty months before' the interview occurred, Sir

despatches as they stand. But they have now to be compared with another account of the same transaction given by authority of Sir Robert Cotton himself. It was given upon a memorable occasion. The place was the Painted Chamber in the Palace of Westminster. The hearers were the assembled Lords and Commons of the Realm.*

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The Spaniard, it seems, was far, indeed, from holding—as he says that he held—his first conference with Cotton

Robert had ‘argued his case’ [*i. e.* a tract on the question of the right treatment, by the State, of Romanist priests and recusants] ‘from a decidedly Protestant point of view, and had taken care to put himself forward as a thorough, if not an extreme, Protestant.’ But, unfortunately for Mr. Gardiner’s trenchant conclusion on that point, the pamphlet he refers to—by whomsoever written—was certainly *not* written by Sir Robert Cotton.

* [Then the Duke] came to the Relation of Sir Robert Cotton [of the intercourse] that he had with the Spanish Ambassador in 1614 [O.S.]. The Spanish Ambassador came to his house pretending [a desire] to see his rarities. On the 10th of February he acquainted His Majesty with it. Somerset [had] warrant then to sound the life of the intention. [Gondomar] told him he doubted he had no warrant to set any such thing on foot. [On the] 16th of March the Spanish Ambassador dealt with him and endeavoured to make Somerset Spanish, and to further this match. [He] answered him that there were divers rubs and difficulties in it. [On the] 9th of April he gave [Gondomar] a pill in a paper—viz. three reasons: If the King of Spain would not urge unreasonable things in Religion, then,’ &c. [as in Gondomar’s letter, which I have already quoted]. ‘Afterwards Sir Robert Cotton was questioned [for shewing] to the Ambassador of Spain a packet [received] from Spain [In the year] 1616, His Majesty told Sir Robert Cotton that Gondomar had counterfeited those letters, and that he was a “juggling jack.”’ Here Sir Edward Coke interposed. He was one of the Managers of the Conference for the Commons. He spoke thus: ‘This matter has a little relation to me. I committed Sir Robert Cotton, when I was Chief Justice. For I understood he had intelligence with the Spanish Ambassador, and questioned him for it. *For no subject ought to converse with Ambassadors without the King’s leave.* For the offence [for which] I committed him [Sir Robert had] afterwards his general pardon from the King.’ *Journals of the House of Commons*, 4 March, 1624. Vol. I, pp. 727, 728.

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either in his own ambassadorial lodging, or upon credentials given in the name and by the command of King JAMES. That COTTON sought him he suggests, by implication. That the visit, in which the ground was broken, was made at the King's instance, he states circumstantially. Both the suggestion and the assertion are false.

114.
 February.

As the reader has seen, Sir Robert's openness in exhibiting his library and his antiquities was matter of public notoriety. Profiting by that well-known facility of access, the Spanish Ambassador presented himself at Cotton House in the guise of a virtuoso. 'Do me the favour—with your wonted benevolence to strangers—to let me see your Museum.' With some such words as these, GONDOMAR volunteered his first visit; led the conversation, by and bye, to politics; found that COTTON was not amongst the fanatical and indiscriminating enemies of Spain at all price—outspoken, as he had been, from the first, in his assertion both of the wisdom and of the duty of England to protect the Netherlanders; showed him certain letters or papers (not now to be identified, it appears), and in that way produced an impression on COTTON's mind which led him to confer with SOMERSET, and eventually with the King. So much is certain. Unfortunately, the speeches at the famous 'Conference' on the Spanish Treaty, in 1624, are reported in the most fragmentary way imaginable. The reporter gives mere hints, where the reader anxiously looks for details. Their present value lies in the conclusive reasons which notwithstanding the lacunæ—they supply for weighing, with many grains of caution, the accusations of an enemy of England against an English statesman—whensoever it chances that those accusations are uncorroborated. King JAMES himself (it may here be added), when looking back at this mysterious transaction some years later,

and in one of his Anti-Spanish moods—said to Sir Robert: ‘The Spaniard is a juggling jack. I believe he forged those letters;’ alluding, as the context suggests, to the papers—whatever they were—which GONDOMAR showed to CORRON at the outset of their intercourse, in order to induce him to act as an intermediary between himself and the Earl of SOMERSET.

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At this time, the ground was already trembling beneath SOMERSET’S feet, though he little suspected the source of his real danger. He knew, ere long, that an attempt would be made to charge him with embezzling jewels of the Crown. In connection with this charge there was a State secret, in which Sir Robert COTTON was a participant with SOMERSET, and with the King himself. And a secret it has remained. Such jewels, it is plain, were in SOMERSET’S hands, and by him were transferred to those of COTTON. Few persons who have had occasion to look closely into the surviving documents and correspondence which bear upon the subsequent and famous trials for the murder of OVERBURY, will be likely to doubt that the secret was one among those ‘alien matters’ of which SOMERSET was so urgently and so repeatedly adjured and warned, by JAMES’S emissaries, to avoid all mention, should he still persist (despite the royal, repeated, and almost passionate, entreaties with which he was beset) in putting himself upon his trial; instead of pleading guilty, after his wife’s example, and trusting implicitly to the royal mercy.

For the purpose of warding off the lesser, but foreseen, danger, CORRON advised the Earl to take a step of which the Crown lawyers made subsequent and very effective use, in order to preclude all chance of his escape from the unforeseen and greater danger. By Sir Robert’s recommenda-

1615.
July.

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tion he obtained from the King permission to have a pardon drawn, in which, amongst other provisions, it was granted that no account whatever should be exacted from SOMERSET at the royal exchequer; and to that pardon the King directed the Chancellor to affix the Great Seal. The Seal, however, was withheld, and a remarkable scene ensued in the Council Chamber. There are extant two or three narratives of the occurrence, which agree pretty well in substance. Of these GONDOMAR's is the most graphic. The incident took place on the 20th of August. The despatch in which it is minutely described was written on the 20th of October. There is reason to believe that the Ambassador drew his information from an eye-witness of what passed.

THE SCENE
IN THE
COUNCIL
CHAMBER,
RESPECTING
THE PARDON
DRAWN BY
SIR R.
COTTON FOR
SOMERSET.
1615.
August.

'As the King was about to leave the Council Board,' writes GONDOMAR, 'SOMERSET made to him a speech which, as I was told, had been preconcerted between them. He said that the malice of his enemies had forced him to ask for a pardon; adduced arguments of his innocency; and then besought the King to command the Chancellor to declare at once what he had to allege against him, or else to put the seal to the pardon. The King, without permitting anything to be spoken, said a great deal in SOMERSET's praise; asserted that the Earl had acted rightly in asking for a pardon, which it was a pleasure to himself to grant—although the Earl would certainly stand in no need of it in his days—on the Prince's account, who was then present.' Here, writes GONDOMAR, the King placed his hand on the Prince's shoulder, and added—'That he may not undo what I have done.' Then, turning to the Chancellor, the King ended with the words: 'And so, my Lord Chancellor, put the seal to it; for such is my will.' The Chancellor, instead of obeying, threw himself on his

knees, told the King that the pardon was so widely drawn that it made SOMERSET (as Lord Chamberlain) absolute master of 'jewels, hangings, tapestry, and of all that the palace contained; seeing that no account was to be demanded of him for anything.' And then the Chancellor added: 'If your Majesty insists upon it, I entreat you to grant me a pardon also for passing it; otherwise I cannot do it.' On this the King grew angry, and with the words, 'I order you to pass it, and you must pass it,' left the Council Chamber. His departure in a rage, before the pardon was sealed, gave SOMERSET's enemies another opportunity by which they did not fail to profit. They had the Queen on their side. On that very day, too, the King set out on a progress, long before arranged. For the time the matter dropped. Before the Ambassador of Spain took up his pen to tell the story to his Court, VILLIERS, 'the new favourite,' had begun to supplant his rival; so that the same despatch which narrates the beginnings of the fall of SOMERSET, tells also of the first stage in the rapid rise of BUCKINGHAM.

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About a month after this wrangling at the Council Board, SOMERSET again advised with Sir Robert COTTON on the same subject. COTTON recommended him to have the Pardon renewed; saying to the Earl, 'In respect you have received some disgrace in the opinion of the world, in having passed' [*i. e.* missed] 'that pardon which in the summer you desired, and seeing there be many precedents of larger pardons, I would have you get one after the largest precedent; that so, by that addition, you may recover your honour.' Strangely as these closing words now sound, in relation to such a matter, they seem to embody both the feeling and the practice of the times.

THE SECOND
PARDON
DRAWN BY
COTTON.
1616, Sept.

*Report of the
Trial of the
Earl of
Somerset.*
(MS. R. H.)

In another version of the proceedings at the trial of May,

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MS. Report
of Trial
(R. H.).

1616, SOMERSET is represented as using in the course of his defence these words: 'To Sir Robert Cotton I referred the whole drawing and despatch of the Pardon.' And again: 'I first sought the Pardon by the motion and persuasion of Sir Robert Cotton, who told me in what dangers great persons honoured with so many royal favours had stood, in former times.' Sir Robert's own account of this and of many correlative matters of a still graver sort has come down to us only in garbled fragments and extracts from his examinations, such as it suited the purposes of the law-officers of the Crown to make use of, after their fashion. The original documents were as carefully suppressed, as COTTON's appearance in person at the subsequent trial was effectually hindered. At that day it was held to be an unanswerable reason for the non-appearance of a witness,—whatever the weight of his testimony,—to allege that he was regarded by the Crown as 'a delinquent,' and could not, therefore, be publicly questioned upon 'matters of State.' There is little cause to marvel that a scrutinising reader of the *State Trials* (in their published form) is continually in doubt whether what he reads ought to be regarded as sober history, or as wild and, it may be, venomous romance.

One other incident of 1615 needs to be noticed before we proceed to the catastrophe of the Gondomar story.

1615.
May 24.

Comp. MS.
Cott. Cleop.
F. vi, § 1.
'An Answer
... to certain
military men,
&c., (April,
1609).

In May of this year Sir Robert wrote a letter to Prince CHARLES, which is notable for the contrasted advice, in respect to warlike pursuits, which it proffers to the new Prince, from that more famous advice which had but recently been offered to his late brother. He had lately found, he tells Prince CHARLES, a very ancient volume containing the principal passages of affairs between the

two kingdoms of England and France under the reigns of King HENRY THE THIRD and King HENRY THE FIFTH, and had caused a friend of his to abstract from it the main grounds of the claim of the Kings of England to the Crown of France; translating the original Latin into English. This he now dedicates to the Prince, 'as a piece of evidence concerning that title which, at the time when God hath appointed, shall come unto you.' He ends his letter in a strain more than usually rhetorical:—'This title hath heretofore been pleaded in France, as well by ordinary arguments of civil and common law, as also by more sharp syllogisms of cannons in the field. There have your noble ancestors, Kings of this realm, often argued in arms; there have been their large chases; there, their pleasant walks; there have they hewed honour out of the sides of their enemies; there—in default of peaceable justice—they have carried the cause by sentence of the sword. God grant that your Highness may, both in virtues and victories, not only imitate, but far excel them.'

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Sir R. Cotton
to Prince
Charles.
(MS. Laned.
223, fol. 7.)
(Copy.)
(B. M.)

The royal commission for the first examination of COTTON was issued on the 26th of October, 1615. Two months afterwards he was committed to the custody of one of the Aldermen of London. His library and papers were also searched.

The King to
Archbishop
of Canter-
bury, &c.
*Domestic
Corresp.*
James I,
vol. lxxvi,
§ 16.
(R. H.)

COTTON's accusation was that of having communicated papers and secrets of State to the Spanish Ambassador. He was subjected to repeated examinations, which (as we have seen) are extant only in part. He maintained his innocence of all intentional offence. 'The King,' he said, 'gave me instruction to speak as I did. If I misunderstood His Majesty my fault was involuntary. I followed the King's instruction to the best of my belief and recollection.'

COTTON'S
EXAMINA-
TIONS BY
COMMISSION
Jan.—April,
1616.

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COTTON.

The examiners, however, were more intent by far on extracting something from COTTON that would tell against SOMERSET, than on the punishment of the fallen favourite's ally and agent. COKE, in particular, was indefatigable in the task. It was as congenial to him as was the study of BRACTON or of LITTLETON.

What then must have been his delight when,—whilst attending a sermon at Paul's Cross,—word was brought to him which gave hope of a discovery of SOMERSET's most secret correspondence? The pending proceedings had stirred men's minds in city and suburb, as well as at Court. A London merchant had been asked, a little while before, to take into his charge a box of papers. The depositor was a woman of the middle class, with whom his acquaintance was but slight. At that time there was nothing in the incident to excite suspicion. But, at a moment when strange rumours were afloat, the depositor suddenly requested the return of the deposit. The merchant bethought himself that the circumstances now looked mysterious. If the papers should chance to bear on matters of State, to have had any concern with them, howsoever innocent, might be dangerous. He carried the box to Sir Edward COKE's chambers. Not a moment was lost in apprising the absent lawyer of the incident. Such news was of more interest than the sermon. Probably, the preacher had not finished his exordium, before all the faculties of COKE and of a fellow-commissioner were bent on the letters which had passed between SOMERSET and NORTHAMPTON.

If GONDOMAR is to be believed, some secret papers belonging to King JAMES himself were part of the precious spoil.*

* ' Por diferentes vias le confirmado que contra el Conde [Someraset] no se averigua cosa de sustancia en lo de la muerte del Ovarberi; y de la del Principe [Henry, Prince of Wales,] no ha permitido

As usual, there are two accounts of the original secretor of the papers so opportunely discovered. According to one of them, the box was delivered by SOMERSET'S own order to the woman by whom it was carried to the London merchant. According to another, SOMERSET entrusted the papers to COTTON; and the latter, anticipating the search and sealing up of his library, gave them to a female acquaintance with whom he thought they would remain in safety, but whose own fears led her to shift their custody, in her turn.

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COTTON'S
DEALINGS
WITH SOMER-
SET'S CORRE-
SPONDENCE.
1615.

That the letters which NORTHAMPTON had received from SOMERSET — containing, amongst many other things, numerous references to the imprisonment of OVERBURY in the Tower—had been in Sir Robert COTTON'S hands is unquestioned. After NORTHAMPTON'S death, COTTON, to use his own words, had been 'permitted to peruse and oversee all the writings, books, &c. in the Earl's study.' In the course of this examination he proceeds to say, 'I had collected thirty several letters of my Lord of SOMERSET to the Earl of Northampton, which, upon request, I delivered to my Lord Treasurer [the Earl of SUFFOLK,] who sent them to the Earl of SOMERSET.' SUFFOLK, it is to be remembered, was NORTHAMPTON'S heir.

Thus far, no charge rests upon COTTON in relation to this correspondence. What he did in disposing of SOMERSET'S

el Rey que se hable en ella; y todo lo demas probado hasta agora viene a parar en que dio un decreto antes que le prendiesen, para recoger unos papeles, diciendo que era orden del Rey, sin haverla tenido para ello. Fue lo que causo su prision, y el aver entregado despues todos los papeles que tenia de importancia, con algunas joyas, a un amigo suyo [Sir Robert Cotton], para que lo guardase que se coxieron. Y el Rey ha sentido infinito que se ayan visto algunos papeles que havia suyos para el Conde, . . . y assi carga agora toda la yra sobre el Conde,' &c. Gondomar to Philip III,—Simancas MS. 2595, f. 23; and in *Archæologia* (by Gardiner), vol. xli, p. 29.

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letters was done by order of the representatives of their deceased owner. It is far otherwise with respect to their treatment after they had repassed, by SUFFOLK's gift, into the hands of SOMERSET, their writer.

Extracts of
Examina-
tions, &c.
(L. H.).

The letters were undated. That they should be so was in accordance with the practice of a majority of the letter-writers of the time—as students of history know to their sorrow. When suspicion was aroused and inquiry commenced about the real cause of OVERBURY's death, COTTON's advice was sought by SOMERSET. He told me, says SOMERSET himself: 'These letters of your's may be dated, so as may clear you of all imputation.' Did he mean that the dates might be forged, and so be made to bear false witness? Or did he mean that, by putting their true dates to the letters, their contents would exculpate an innocent man? To these questions there is absolutely no answer, save the presumptive answer of character.*

* On this point, it is my wish to leave the reader to form his own estimate of probabilities. *Probabilities*, only, are attainable; and I have no side to take, in any attempt to weigh them. But it may be well to ask the reader's attention to a passage in the Diary of a contemporary of Sir R. Cotton, a man of high character, and one who sat by Cotton's side in Parliament, fighting with him for the liberties of England, during many years; one who is also remarkable for speaking about the faults of his friends with abundant candour. 'Sir Robert Cotton, being highly esteemed by the Earl of Somerset, . . . was acquainted with this murder [of Overbury] by him, a little before it now came to light, and had advised him what he took to be the best course for his safety.' This passage occurs in the private diary of Sir Symonds D'Ewes—'a man,' says a great writer, 'of somewhat Grandisonian ways, a man of 'scrupulous Puritan integrity, of high flown conscientiousness, . . . ambitious to be the pink of Christian country gentlemen, (Carlyle's *Essays*, iv, 297.) This 'scrupulous Puritan' knew all that was current about the terrible 'Great Oyer of Poisoning,' as Sir Edward Coke called it. He lived in familiar intercourse with Cotton, and regarded their long acquaintance as an honour to himself; whilst speaking freely about certain social habits and limitations—neither Grandisonian or Puritanic—on Cotton's part,

Whatever may be our estimate of the difficulty attending on the admission of such exculpation as that, in respect of a charge which amounts (in substance) to participation, after the fact, in the crime of murder, there is really now no alternative. That Sir Robert Cotton put dates to SOMERSET's undated letters is certain. It was found to be absolutely impossible, after desperate effort, to prove that the dates were false. It is alike impossible to prove that they are true. These dates are in COTTON's own hand, without any attempt to disguise it.

Upon the hypothesis of SOMERSET's guilt, the question is beset with as much difficulty, as upon the hypothesis of his innocence. By procuring OVERBURY's imprisonment—with whatever motive, or beneath whatever influence—SOMERSET had brought himself under inevitable suspicion of complicity in the ultimate result of that imprisonment. He was already within the web. His struggles made it only the more tangled.

Sir Robert Cotton remained in custody until the middle of the year 1616. He was effectually prevented from appearing in May of that year as a witness at his friend's trial. He was himself put to no form of trial whatever. But he had to purchase his pardon at the price of five hundred pounds. It received the Great Seal on the 16th July. Remembering BACON's share in each stage of the proceedings against SOMERSET, and the lavishness of his pro-

as precluding their intercourse from ripening into that close friendship which such a man as D'Ewes could form only with men likeminded with himself on the highest interests of humanity. Is it not easy to infer—and is not the inference also inevitable—that by the fact of Somerset 'acquainting Cotton with the murder of Overbury a little before' it became public, and advising him as to 'the course for his safety,' D'Ewes understood such a communication and such advice as are entirely compatible with Somerset's innocence of his wife's crime?

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*Domestic
Corresp.*
James I,
vol. lxxvii,
f. 67 (B. II.).

Bacon to
Villiers,
Feb. 1; and
April 18;
1616.

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fessions to VILLIERS of the extreme delight he felt in following the lead of the new favourite throughout every step of the prosecution of the old one, it is suggestive to note that the framers, five years afterwards, of a pardon for the Lord Chancellor BACON were directed to follow the precedent of the pardon granted in July 1616 to Sir Robert COTTON.

Nor is it of less interest to observe that, to some of Sir Robert COTTON's closest friends, it seemed—at the moment when every part of the matter was fresh in men's minds—that it was much more needful for him to exonerate himself from a suspicion of having stood beside SOMERSET too lukewarmly, than to clear himself from the charge of committing a forgery in order to cloke a murder. Very significant, for example, are the words of one of those friends which I find in a letter addressed to Cotton on the very day on which his pardon passed the Great Seal:—‘If I say I rejoice and gratulate to you your return to your own house, as I did lament your captivity, . . it will easily be credited. . . . The unsureness of this collusive world, and the danger of great friendships, you have already felt; and may truly say, with holy DAVID, *Nolite fidere in principibus* As I hear, you have begun to make good use of it, by receiving to you your Lady which God himself had knit unto you. It is a piety for which you are commended. And, were it not for one thing I should think my comfort in you were complete. . . . *It is said you were not sufficiently sincere to your most trusting friend, the pitied Earl. Though I hold this a slander, yet being not able to make particular defences, I opposed my general protestation against it as an injury to my friend.* Yet wanting apt countermines to meet with those close works by which some seek to blow up a breach into your honour, I was not a little afflicted. . . .

Bolton to
r R. Cotton;
att. MS.
dius C., iii,
l. 32.
(M.)

I leave the arming of me in this cause to your own pleasure.'

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The caution as to the danger of the friendships of grandees and great favourites was one which COTTON took to heart. In the years to come he had occasionally to give critical advice, in critical junctures. But, in the true sense of the words, he learnt, at last, not to put his trust in Princes. Long before his acquaintance with SOMERSET and his private conferences with JAMES, a very true and dear friend had noted a dangerous proclivity in Sir Robert's character. It prompted, by way of counsel, the words: 'Be yourself; and no man's creature; but [only] God's. And so He will prosper all your designs, both to his glory and your good.'

Arthur
Agarde to Sir
R. Cotton:
Cott. MS.
Julius C., iii,
fol. 1.

That ply had been taken too deeply, however, to be very easily smoothed out. In the years to come Sir Robert COTTON approached—more than once, perhaps—the brink of the old peril. As BUCKINGHAM clomb higher and higher, and busied himself with many transactions of the nature of which he had but a very insecure mental grasp, he felt his need of the counsels of experienced men. He made occasional advances to COTTON, amongst others. They were met; and not always so warily, as might now have been expected.

But against the danger which over-confiding intercourse with too-powerful courtiers was sure to bring in its train, COTTON found a better safeguard in wounded self-esteem, than even in dearbought experience. He soon saw that in BUCKINGHAM's character there was at least as much of vacillation as of versatility. The famous lines which describe the son as

A man so various, that he seem'd to be
Not one, but all mankind's epitome,

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COTTON.

would have a spice of truth if applied to the father. But their applicability is only partial; whereas the lines which follow are almost as true—a single word excepted—of the first Duke of Buckingham as they were of the second—

Stiff in opinions; often in the wrong;
He's everything by starts, and nothing long.

When Sir Robert Cotton perceived that James's new favourite would listen, in the morning, to grave advice on a grave subject, and affirm his resolution to act upon it; and yet, in the afternoon suffer himself to be carried from his purpose by the silly jests or malicious suggestions of youngsters and sycophants, unacquainted with affairs and often reckless of consequences, he saw the wisdom of standing somewhat aloof. He rarely, however, refused his advice, when it was asked. In regard to matters of naval administration,—the authoritative value of his opinion on which was now everywhere recognised, save in the dockyards and their dependencies,—he gave it with especial willingness. But henceforward, to use AGARDE's words, he was 'no man's creature.'

Five years passed on, marked by events which stirred England to its core, but to Sir Robert Cotton they were years of comparative quiet. He was, indeed, very far from being a careless bystander. He observed much, and learnt much. Had it not been for the lessons which those publicly eventful years impressed on his receptive mind, he might have gone to his grave with no other reputation than that of a profound antiquary, and the Founder of the Cottonian Library.

Meanwhile, his pen worked as hard in the service of scholars, both at home and abroad, as though he had been a

GROWTH OF
COTTON'S
LITERARY
AND PUBLIC
CORRESPONDENCE.

busy proof-reader in a leading printing-office. He supplied, at the same time, on the right hand and on the left, precedents and formulæ, with a diligence and readiness which would have won both fame and fortune for a long-accustomed conveyancer. CAMDEN consults him, continually, for help in his historical labours. BEN JONSON puts questions to him about intricate points of Roman geography. WILLIAM LISLE seeks COTTON's aid in the prosecution of his studies of the language and literature of the Anglo-Saxons. PEIRESC consults him on questions in Numismatics. If great officers of State chance to quarrel amongst themselves about their respective claims to carry before the King the sword *Curtana*, at some special ceremony, they agree to refer the dispute to Sir Robert COTTON and to abide—without fighting a duel—by his momentous decision. If a courtier obtains for a friend the royal promise of an Irish viscounty he writes to COTTON, asking him to choose an appropriate and well-sounding title. ROGER MAYNWARING begs him to determine the legal amount of burial-fees. DR. LAMBE asks him to settle conflicting pretensions to the advowson of a living which, in old time, belonged to an abbey. AUGUSTINE VINCENT implores his help in a tough question about patents of peerage. The Lord Keeper WILLIAMS seeks advice on questions of parliamentary form and privilege. RALEGH writes to him, from that 'Bloody Tower' which he was about to turn into a literary shrine for all generations of Englishmen to come, by composing in it a noble 'History of the World'—beseeching him to supply a desolate prisoner with historical materials. The Earl of ARUNDEL writes to him from Padua, begging that he would compile 'the story of my ancestors.' The Earl of DORSET entreats him to make out a list of the gifts which some early SACKVILLE had piously bestowed upon the

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MS. Cott.,
Julius C., iii,
fol. 239.
(B. M.)
Ib., fol. 238,
seqq.

*Domestic
Corresp.*,
Jas. I, vol.
lxxxi, § 15.
(B. H.)

MS. Cott.,
Julius C., iii,
fol. 378.
Ib., fol. 252.
Ib., fol. 229.
Ib., fol. 379.

Edwards'
*Life and Let-
ters of
Raleigh*, vol.
ii, p. 331.

MS. Julius C.
iii, fol. 204.

Ib., fol. 320.

OK I,
ap. II.
FE OF
i ROBERT
TTON.

isbury to
iton, in
i. Cott.,
lius C., iii.

i. Cott.,
lius C., iii,
. 57.

Church—not, however, with the smallest intention of himself increasing them. And, anon, there comes to Sir Robert, from a third great peer, the second of the Cecil Earls of Salisbury, an entreaty—expressed in terms so urgent that one might call it a supplication—‘Permit me, I pray you, to see my Lord of NORTHAMPTON’s letters . . . I will return them unread, and unseen, by anybody,’ save himself. And then the Secretary of State writes to him in an impetuous hurry which made his letter scarcely legible:—‘If you be not here’ [*i. e.* at the Council Chamber] ‘with those precedents for which there is present use, we are all undone. For His Majesty doth so chide, that I dare not come in his sight.’

Along with this busy correspondence—of which, in these brief sentences I have given the reader but a very inadequate and scanty sample—the surviving records of these years of comparative retirement supply us with abundant notices of the growth and of the sources, from time to time, of the Cottonian Library. It would be no unwelcome task to tell that story at length. It would, indeed, be but the paying, in very humble coin, of a debt of gratitude to a liberal benefactor. But within the compass of these pages so many careers have to be narrated that the due proportions of some of them—and even of one so interesting as COTTON’S—must needs be closely shorn. On this point it must, for the present, suffice to say that the acquisition of many Cottonian State Papers, and of such as carry on their face the most irrefragable marks of former official ownership, can be distinctly traced. The assertion is no hasty or inconsiderate one. It is founded on an acquaintance with the Cottonian MSS., which is now, I fear, thirty years old, and on the strength of which (when reading some recent assaults on the fair fame of their Collector), I

have been tempted to put certain well-known lines into Sir Robert's mouth :—

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If I am

Traduced by o'er hasty tongues—which neither know
My faculties nor person, yet will be
The chroniclers of my doing—let me say
'Tis but the fate of place, and the rough brake
That virtue must go through.

Were it not, however, for one pregnant circumstance in Sir Robert Cotton's subsequent life, all this would have but a very meager attractiveness for nineteenth-century readers. The story of the growth of a great library has its charm, but the sphere of potency is of small dimension. Few but those who are themselves imbued with a spice of literary antiquarianism ever enter within the narrow circle. Just in like manner, that active literary and political correspondence—spreading from Exeter to Durham, and from Venice to Copenhagen—would nowadays have but a slender interest for anybody (not belonging to the scorned fraternity of Oldbuck and Dryasdust), were it not for that great war between King and Parliament, Cavalier and Roundhead, of which, in one sense, COTTON lived only long enough to see the gathering of forces, and the early skirmishes, but in which, nevertheless, he played a part second only to that played by ELIOT and by PYM. His close connection with the Parliamentary leaders of 1625-1629 lifts the whole story of the man out of the petty circuit of mere 'curiosities of literature,' into the broad arena of the hard-won liberties of England.

All students of the deeds done in that arena now know—and their knowledge is in no slight degree due to the persistent labours of a living writer—that the battle of the 'Petition of Right' was even a greater battle than Naseby

COTTON'S
ALLIANCE
WITH THE
PARLIAMEN-
TARIAN
CHIEFS.

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COTTON.

or Marston Moor. They know that the marshalling of the forces which, at a period antecedent to that famous Petition, succeeded in winning a safe place on 'the fleshy tables' of the hearts of Englishmen for those political immunities it embodied—after the first written record had been vainly torn from the Council Book—was a feat of arms not less brilliant, in its way, than was that arraying of Ironsides, on much later days of the long strife, which resulted in 'Darwen stream with blood of Scots imbued,' and placed Worcester's laureat wreath on the brow of CROMWELL. There are many senses in which we have all of us (or nearly all) learnt to see the truth of the familiar words, 'Peace hath her victories, not less renown'd than War,' but in no sense have those words a deeper truth than when we simply invert MILTON's own application of them. By him they were pointed at something yet to be done, and which, as he hoped, might be done by CROMWELL. Nowadays, the historian has good ground to point them at an earlier victory, won when the great soldier was but looking on at the parliamentary contest, which he could not much advance, and might very possibly have seriously impeded. The one thing which has transmuted Robert COTTON from the status of a dead antiquary into that of a living English worthy, is his close fellowship with ELIOT, RUDYARD, and PYM. His rights to a place amongst our national worthies is due—more than all else—to the fact that the services which he rendered in that strife of heroes were services which one man, and only one, throughout broad England had made himself capable of rendering. COTTON could no more have led the parliamentary phalanx, than he could have led the Ironsides. To stir men's minds as ELIOT or PYM could stir them was about as much in his power as it was to have invented logarithms, or to have written '*Lear*.'

But if he could not command the army, he could furnish the arsenal. At that day and under the then circumstances that service was priceless.

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Sir Robert COTTON's best and most memorable parliamentary service was rendered under CHARLES; not under JAMES. But there is one incident in his public career which occurred just before the change in the wearers of the Crown that has a claim to mention, even in so brief a memoir as this.

Among the revenges wrought by the 'whirligigs of time' before JAMES went to his grave, was the necessity laid upon him to direct a search for precedents how best to put a mark of disgrace on a Spanish Ambassador for misconduct in his office. The man selected by the Duke of Buckingham to make the search, and to report upon it, was Sir Robert COTTON. Some weeks before he had been chosen to draw up, in the name of both Houses of Parliament, a formal address to the King for the rupture of the Spanish match.

When BUCKINGHAM made that famous speech at the Conference of Lords and Commons on the relations between England and Spain, to which COTTON's well-known *Remonstrance of the treaties of Amity and Marriage of the Houses of Austria and Spain with the Kings of England*,* was to serve as a preface, he spoke with considerable force and incisiveness. His arguments were not hampered by many anxieties about consistency with his own antece-

THE SEARCH
FOR PRECE-
DENTS
AGAINST
AMBAS-
SADORS.

1624.
27 April.

* Such is the title in *Cottoni Posthuma*. In MS. Harl. 180—apparently given by Cotton himself to Sir S. D'Ewes—the title is '*A Declaration against the Match*,' &c. In that copy, this note occurs at the end, in Sir Symonds' hand:—'Thus far only, as Sir Robert Cotton himself told me, he proceeded; leaving the rest to be added . . . according to the relation . . . declared before the greater part of both Houses by . . . the Duke of Buckingham.'—MS. Harl. 180, fol. 169.

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COTTON.

dents. His words were chosen with a view to clinch his arguments to English minds rather than to spare Spanish susceptibilities. The ambassadors—there were then, I think, two of them—were furious at a degree of plain-speaking to which they had been little accustomed. They appealed to the King. They knew that the versatile favourite, once loved, was now dreaded. They tried to work on the King's cowardice. The Duke, they told His Majesty, had plotted the calling of Parliament expressly to have a sure tool with which to keep him in control, should he prove refractory to the joint schemes of the Duke and Prince CHARLES. 'They will confine your Majesty's sacred person,' said they, 'to some place of pleasure, and transfer the regal power upon the Prince.'

*Relation of
Proceedings,
&c.; MS.
LANSD., 811,
ff. 133-139.*

The framing of such an accusation, writes Sir Robert, in the Report which he addressed to BUCKINGHAM on '*Proceedings against Ambassadors who have miscarried themselves*,' would, by the laws of the realm, amount to High Treason, had it been made by a subject. He then adduces a long string of precedents for the treatment of offending envoys; advises that the Spaniards should first be immediately confined to their own abode; and should then, by the Speakers of both Houses of Parliament, in person, be exhorted and required to 'make a fair discovery of the ground that led them so to inform the King.'

If, says Sir Robert, they refuse—'as I believe they will'—then are they authors of the scandal, and His Majesty should be addressed to send a 'letter of complaint to the King of Spain, requiring justice to be done according to the law of nations, which claim should the King of Spain refuse, the refusal would amount to a declaration of war.' This advice was given by COTTON to the Duke on the 27th of April, 1624. Its author's momentary favour with the

favourite of the now fast-rising sun was destined (as we shall see presently) to be of extremely brief duration.

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COTTON.

Pen-service of this sort was eminently congenial with Sir Robert COTTON's powers. To his vast knowledge of precedents he added much acumen and just insight in their application. Though never admitted to the Privy Council as a sworn councillor of the Crown, his service as an adviser on several great emergencies was conspicuous.

And it did not stand alone. Small as were his natural gifts for oratory, COTTON's earnestness in the strife of politics prompted him, more than once, to put aside his own sense of his disadvantages, and to endeavour himself to strike a good blow, with the weapons which he knew so well how to choose for others. On one of these occasions he prepared a speech which proved very effective.

COTTON'S
SPEECH IN
THE PARLIA-
MENT AT
OXFORD.

Curiously enough, whilst the best contemporary reports of that speech agree amongst themselves in substance; they differ as to the name of the speaker by whom it was actually uttered within the walls of the House of Commons. Internal evidence and external authority are also agreed that the speech, if not spoken, was at all events prepared by Sir Robert COTTON. On that point, all parties coincide. But according to one account, he both wrote and uttered it. According to another, he wrote it; but was prevented from the intended delivery,—either by an accidental absence from the House, or by some inward and unwaivable misgiving which led him at the eleventh hour to hand over the task to the able and well-accustomed tongue of his comrade ELIOT.

1695.
10 August.

If we turn, for help—in our strait—to the admirable biography of ELIOT, by Mr. FORSTER, we shall find that its author rather accepts the doubt, than solves it. Inclining

COTTON'S?
OR ELIOT'S?

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to the opinion that Sir John ELIOT was the actual utterer, he thinks nevertheless that the best course is to 'let the speech stand double and inseparable; a memorial of a fast friendship.' It was the friendship, I may add, of two statesmen who fought a good fight, side by side; until one of them was violently torn out of the arena, and thrust into a dungeon, in the hope that slow disease might unstring the eloquent tongue which honours could not bribe, and terrors could not silence.

In Sir Robert's posthumous tracts (as they were published by James HOWELL) this speech has been printed as unquestionably spoken by him who wrote it. But that publication—as I have had occasion to show already, in relation to the '*Twenty-four Arguments*'—carries no grain of authority. Spoken or simply composed by its author, the speech is alike memorable in English history, and in the personal life of the man himself.

The existence of the plague in London had led to the adjournment of the first Parliament of King CHARLES to Oxford. It was there, and on the 10th of August, 1625, that the speech which—whether it came from the lips of John ELIOT or of Robert COTTON—made a deep impression on the House, was spoken. It gave the key-note to not a few speeches of a subsequent date, and it contains passages which, in the event, came to have on their face something of the stamp of prophecy.

Retrenchment in expenditure,—Parliamentary curb on Royal favourites,—No trust of a transcendent power to any one Minister,—Less lavishness in the bestowal of honours and dignities won by suit, or purchase, rather than by public meed,—Wary distrust of Spain,—Abolition of unjust monopolies and oppressive imposts;—these are amongst the earnest counsels which (whether it were as

writer, or as speaker) Sir Robert COTTON impressed on his fellow-members in that memorable sitting at Oxford. Both the pith and the sting of the Speech may be found in its concluding words: 'His Majesty hath . . . wise, religious, and worthy servants. . . . In loyal duty, we offer our humble desires that he would be pleased to advise with them *together*; . . . *not with young and single counsel*.' Well would it have been for CHARLES, had he taken those simple words to heart, in good time.

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To us, and now, there is a special interest in an incidental passage of this speech which relates to SOMERSET. The reader has seen how Count GONDOMAR's secret testimony—just disinterred from Simancas—against SOMERSET, as well as against COTTON, has recently been dealt with by an eminent historian. It is worth our while to remember some other words on that subject spoken publicly in the Parliament at Oxford almost two centuries and a half ago. They were spoken in the ears of men whose eyes had looked with keen scrutiny into the Spanish envoy as well as into the English minister. SOMERSET was still living. Men who then sat in the Parliament Chamber knew every incident in his official life, and not a few incidents in his private life, as well as every charge by which—publicly or privately—he had been infamed. They knew, exactly, Sir Robert COTTON's position towards the fallen minister. If we choose to suppose that ELIOT was now speaking what COTTON wrote, the inference is unchanged. To those listeners Sir John and Sir Robert were known to be politically 'double and inseparable.'

(See, also,
heretofore,
the foot-note
to p. 73.)

The facts being so, what is the course taken by the speaker when he finds occasion to remind the House of things that happened when 'My Lord of Somerset stood in state of grace, and had the trust of the Signet Seal?'

COTTON'S
EULOGY ON
LORD
SOMERSET'S
POLICY
(August,
1625).

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SIR ROBERT
COTTON.

MS. LANSD.,*
401, fol. 195.

Does he take a line of apology and use words of extenuation? Not a whit. In the presence of some of the wisest and ablest of English statesmen, he eulogises SOMERSET as an honest and unselfish minister of the Crown. He asserts, that the Earl had discovered 'the double dealings' of Spanish emissaries, and the dangers of the Spanish alliance; and had made some progress in dissuading even King JAMES from putting faith in Spaniards. Then, winding up this episode, in order to pass to the topic of the hour, COTTON says: 'Thus stood the effect of SOMERSET's power with His Majesty, when the clouds of his misfortune fell upon him. What future advisers led to we may well remember. The marriage with Spain was renewed; GONDOMAR declared an honest man; Popery heartened; His Majesty's forces in the Palatinate withdrawn; His Highness's children stripped of their patrimony; our old and fast allies disheartened; and the King our now master exposed to so great a peril as no wise and faithful counsel would ever have advised.'

At Court, speech such as this was deeply resented, instead of being turned to profit. A curious little incident which occurred at the Coronation of CHARLES in the next winter testifies, characteristically, to the effect which it produced on the minds both of the new King and of his favourite.

At the date of that ceremony, Sir Robert's close political connection with the future Parliamentary chiefs was but in its infancy. His views of public policy were fast ripening, and had borne fruit. His private friendships were more and more shaping themselves into accordance with his tendencies

* There is another MS. of this speech, in *Sir John Eliot's hand*, in the library at Port Eliot. See Forster's *Life of Eliot*, Vol. I, p. 413.

in politics. Amongst those whose intimacy he cultivated—besides that of ELIOT and others who have been mentioned already—were Symonds D'EWES, and John SELDEN. It was at COTTON's hospitable table, in Old Palace Yard, that the two men last named first made acquaintance with each other. Both were scholars; both were strongly imbued with the true antiquarian tinge; both had an extensive acquaintance with the black-letter lore of jurisprudence, as well as with the more elegant branches of archæology; and both, up to a certain point, had common aims in public life; yet they did not draw very near together. SELDEN's more robust mind, and his wider sympathies, shocked some of the puritanic nicenesses of D'EWES. Precisely the same remark would hold good of the relations between COTTON and D'EWES. But a certain geniality of manners in Sir Robert, combined with his grandee-like openness of hand and mind, attracted his fellow-baronet in a degree which went some way towards vanquishing D'EWES' most ingrained scruples. 'I had much more familiarity with Sir Robert COTTON, than with Master SELDEN,' jots down Sir Symonds in his Autobiographic *Diary*, and then he adds: 'SELDEN being a man exceedingly puffed up with the apprehension of his own abilities.' That last sentence,—as the reader, perhaps, will agree with me in thinking,—may possibly tell a more veracious tale of the writer, than of the man whom it reproves.

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SIR ROBERT
COTTON.
FRIENDS
AND HOS-
PITALITIES.

Harl. MS.,
as above.

Be that as it may, the dining-room in Old Palace Yard witnessed frequent meetings of many groups of visitors of whose tabletalk it would be delightful could we find as good a record as we have of the tabletalk in Bolt Court, or at Streatham Park; or even as we have of almost contemporary talk around the board at Hawthornden. Glorious old Ben himself was a frequent guest at Sir Robert COTTON's

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table. Until late in JAMES' reign, CAMDEN, when his growing infirmities permitted him to journey up from Chislehurst, would still be seen there, now and again. During the rare sessions of Parliament, many a famous member, as he left the House of Commons, would join the circle. And the high discourse about Greeks and Romans, about poetry and archæology, would be pleasantly varied, by the newest themes of politics, by occasional threnodies on the exorbitant power of court minions, but also by occasional and glowing anticipations of a better time to come.

COTTON AND
THE CORO-
NATION OF
CHARLES I.

At one of these festive meetings, occurring not long before the Coronation of CHARLES THE FIRST, the talk seems to have turned on the coming solemnity. The plague at this time was still in London, though it was fast abating. That circumstance was to abridge the ceremonies, in order to permit the Court to leave Westminster more quickly ; but it was known that great attention had been given by the King, personally, when framing the programme, to the strict observance of ancient forms. D'EWEES was one of Sir Robert's guests. Like his host, he had a great love for sight-seeing on public occasions. And they would both anticipate a special pleasure in witnessing the revival of certain coronation observances which had been pretermitted during two centuries. In regard to the coronation oath COTTON had been consulted, and he expected to be present, carrying in his hand his own famous copy of the Gospels known as the '*Evangelary of King Ethelstan*.' It was also expected that the watergate of Cotton House would be the King's landing-place, and that he would cross the garden in order that he might enter the Palace more conveniently than he could from its usual stairs, then under repair, or in need of it. Sir Robert invited D'EWEES, with

other of his guests—not privileged to claim places in Westminster Abbey on the great occasion—that at least they might see their new sovereign, as he passed to take his crown.

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When the morning came D'Ewes was early in his visit, but he found Cotton House already filled with ladies. The Earl Marshal had decorated the stairs to the river and the watergate very handsomely. Sir Robert had done his part by decorating his windows, and his garden, more handsomely still. But to the chagrin alike of the fair spectators and of their host, as they were standing, in all their bravery, from watergate to housedoor, to do respectful obeisance, the royal barge, by the King's own commandment—given at the moment, but pre-arranged by BUCKINGHAM—was urged onward. 'To our amazement, writes Sir Symonds, 'we saw the King's barge pass to the ordinary stairs, belonging to the backyard of the Palace, where the landing was dirty . . and the incommodity was increased by the royal barge dashing into the ground and sticking fast, before it touched the causeway.' His Majesty, followed by the Favourite, had to leap across the mud,—certainly an unusual incident in a coronation show.

D'Ewes;
in Harl. MS.,
646, as before.

When COTTON—swallowing the mortification which he must have felt, on behalf of his bevy of fair visitors, if not on his own—presently showed himself in the Abbey, bearing the *Evangelary*, he and it were contemptuously thrust aside.

As a straw tells the turn of the wind, this trivial incident points to a policy. The insults both within the Abbey and without, had been planned, by the King and Duke, in order to mark the royal indignation at the close fellowship of COTTON with ELIOT and the other Parliamentary leaders. That the insults might be the more

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keenly felt, the Earl Marshal was left in ignorance of the plan. It is a help to the truthful portraiture of CHARLES, as well as to that of BUCKINGHAM, to note that to insult a group of English ladies was no drawback to the pleasure of putting a marked affront upon a political opponent. Perhaps, it increased the zest, from the probable near relationship of some among them to the offender.

Made to
Stuteville;
MS. Harl.,
888, 18 April,
1626.

But it is more important to note that another and graver intention in respect to Sir Robert Cotton had been already formed. It was in contemplation to do, in 1626, what was not really done until 1629. BUCKINGHAM had advised the King to put the royal seals on the Cottonian Library. That done, he thought, there would surely be an end to the communication of formidable precedents for parliamentary warfare. More wary counsellors however interposed with wiser advice. A fitting pretext was lacking. Slenderness in the pretext would be no serious obstacle to action. But some excuse there must be. The project, though abandoned for the time, will be seen to have its value when considering, presently, the strange story which is told, in the Privy Council Book, of the '*Proposition to bridle the impertinency of Parliaments*,' and when narrating the sequel of that high-handed act of power, which brought Cotton's head—as yet scarcely gray—with sorrow to the grave.

ADVICE TO
PRIVY
COUNCIL ON
CHANGE OF
COINAGE.

Although, thus early in the reign of CHARLES, a court insult was inflicted upon Sir Robert Cotton, after a fashion the extreme silliness of which rather serves to set off the intended malignity than to cloke it, only a few months passed before his advice was called for in presence of the Council Board, on an important question of home policy. The question raised was that of an alteration of the coinage.

The Privy Council was divided in opinion. There was a desire for the advice of statesmen who were not at the Board, but who were known to have studied a subject beset with many difficulties. Among these, Sir Robert COTTON was consulted. He appeared at the Council Table on the 2nd of September, 1626, and we have a report of his speech to the Lords, which from several points of view is notable. But a preliminary word or two needs to be said on what may seem the singularity that a man who, in 1625, was fighting zealously beside the Parliamentary patriots, should, in 1626, be speaking at the Council Table as a quasi-councillor of the Crown.

It might be sufficient to point attention to the obvious difference between questions affecting the liberty of the subject, and questions of mere administration, were this the only occasion—or were it a fair sample of the only class of occasions—in which COTTON appears as an unofficial Councillor. But the fact is otherwise. And it is best to be explained, partly, by the unsettled character of party connection during the political strife of CHARLES' reign, as well as long afterwards, and partly by peculiarities belonging to the man himself. There are not many statesmen, even of that period, of whom it could be said as the able biographer of Sir John ELIOT says of Sir Robert COTTON: 'He acted warmly with ELIOT and with the patriots in the first Parliament of CHARLES. At the opening of the third, he was tendering counsel to the King, *of which the obsequious forms*

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COTTON.

MS. LANSD.,
ff. 141-152.
(B. M.)*

Council
Registers,
James I, vols.
v and vi, *passim*. (C. O.)

*Life of Sir
John Eliot*,
vol. i, p. 468.

* It has been printed by Howell in the *Cottoni Posthuma* of 1651, pp. 283-294; and is followed by *The Answer of the Committees appointed by Your Lordships to the Propositions delivered by some Officers of the Mint for inhauncing His Majesties monies of gold and silver*. The 'Answer' as well as the speech, appears to be from Sir Robert's pen.

ДОК I.
изд. II.
УМ ОУ
и РОБЕРТ
УТОН.

have yet left no impression unfavourable to his uprightness and honour.' The result is unusual. How came it to pass ?

Perhaps the preceding pages may have already suggested to the reader's mind more than one possible and plausible answer to this question. Here it may suffice to say that while Sir Robert COTTON was plainly at one with the Parliamentary leaders in the main points of their civil policy, he never went to the extreme lengths of the puritanic faith, either in things secular, or in matters pertaining to Religion. On some religious questions he differed from them widely. In secular matters, a tyrannic Parliament would have been as little to his liking as a despotic king. Neither friend nor enemy—GONDOMAR excepted—ever called him a Puritan (or pretended-Puritan) in his lifetime, any more than they would have called him a Republican. His ultimate divergence was not cloaked. It was no bar to the entire respect, or to the love and close fellowship, of men like ELIOT, just because it was frankly avowed, and had no selfish aim. COTTON,—had he lived long enough,—would probably have ranged himself, at last, with the Cavaliers, rather than with the Roundheads. He would have had FALKLAND's misgivings, and FALKLAND's sorrow, but I think he would not have lacked FALKLAND's self-devotion also.

And, in another point, he resembled Lord FALKLAND. Both would have advised CHARLES to yield much of so-called 'prerogative.' Neither of them would have bade him to yield a grain of true royal honour. In later years, some words which COTTON wrote,—in 1627,—for the King's eye may well have come back painfully into CHARLES' memory :—'To expiate the passion of the People,' said Sir Robert, 'with sacrifice of any of His

Majesty's servants, I have ever found to be no less fatal to *the Master* than to the Minister, in the end.'

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COTTON.

The question of the Coinage, on which he was called into Council in September 1626, had caused no small measure of discussion whilst JAMES was still on the throne. Many merchants of London had raised the old and hacknied cry of complaint against an alleged 'vast transportation of gold and silver from England' to the Continent. Others said that the complaint, if not groundless, was misdirected. The following Minute of the Privy Council will shew how the question stood in that early stage. It was drawn up in November, 1618.

THE ADVICE
GIVEN BY
SIR R.
COTTON ON
MINT AF-
FAIRES.

'Being by Your Majesty's commandment to take into our consideration the state of the Mint and to advise of the way or means how to bring bullion more plentifully into the Kingdom, and to be coined there, as also how to stop the great exportation of treasure out of the Realm,—a matter of which the State hath been jealous: For our better information and Your Majesty's satisfaction we thought it fit first to know from the Office of your Mint what quantity of gold and silver hath been there coined in the last seven years of the reign of Queen Elizabeth and the seven years last past of Your Majesty. And we find that in the said seven years of the Queen there was coined in gold and silver of all sorts £948,713 sterling, whereas in the seven late years of Your Majesty's reign there hath been coined of all sorts, in gold and silver, £1,603,998. So as, comparing the one with the other, there hath been coined of both species in the said seven years of Your Majesty's reign £655,285 sterling, more than in the seven years aforesaid of the Queen, the difference being almost

Council to
the King,
30 Nov., 1618;
James I, vol.
iv, p. 45.
(C. O.)

OK I,
ap. II.
FE OF
R ROBERT
TTON.

three parts to one. Next we required a certificate from the Goldsmiths of London of the Plate that hath been made in those years within the City of London; and it appeareth that there was made and stamped in their hall the last seven years of Queen Elizabeth of silver plate the worth of £22,187 more than in the seven later years of Your Majesty's reign. But upon the whole matter we cannot find and do humbly certify the same unto Your Majesty as our opinion that there hath been of late any such vast transportation of gold and silver into France and the Low Countries as was supposed; neither that there is any such notorious diminution of treasure generally in the Kingdom—at the least of gold—since it is apparent that there hath been a far greater quantity in the total coined within these seven years last past than in the last seven years of the late Queen. Besides Your Majesty may be pleased to observe that the making of so much silver plate cannot be the principal cause of the decay of the Mint since there was more plate made in London [in] those last seven years of the Queen,—when there came more silver to be coined in the Mint,—than there hath been used of late years, when silver in the Mint hath been so scarce though Gold more plentiful. . . . In the mean time we do humbly offer . . . that there is no necessity . . . to raise your coin, either in the one kind or in the other. But rather that the same may draw with it many inconveniences; and because the noise thereof through the City of London and from thence to other parts of the Realm, as we understand, hath already done hurt and in some measure interrupted and distracted the course of general commerce, we think it very requisite . . . that some signification be forthwith made from this Table

isters of
ry Council,
above,
16.
O.)

. . . . that Your Majesty hath no purpose at this time to raise your coins.'

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COTTON.

The course thus recommended—and in the recommendation the Council seems to have been well nigh unanimous—was precisely the course JAMES did not wish to take. The Council Books abound with proof how hard it was to dissuade the King from adopting this 'intended project of enhancing the coin [*i.e.* by debasing the standard], though, as COTTON afterwards said at the Council Table, to do so would trench, both into the honour, the justice, and the profit' [*i.e.* the real and ultimate profit] 'of my royal Master very far.'

In his address at the Board, Sir Robert made an almost exhaustive examination of the history of the English Mint. He did it with much brevity and pith. His views about foreign trade are, of course, not free from the fallacies which were accepted as aphorisms by very nearly every statesman then living. But his advice on the immediate question at issue is marked by sound common sense, by insight and practical wisdom. His speech told, and he followed it up by framing, as Chairman of a Committee, (1) an *Answer to the Propositions delivered by some Officers of the Mint*; and (2) *Certain General Rules collected concerning Money and Bullion out of the late Consultation at Court*. Copies of both exist amongst the Harleian and Lansdowne MSS., and both, together with the Speech, are printed in the *Posthuma* (although not without some of the Editor's characteristic inaccuracies).

MS. LANSD.,
811, ff. 148-
152 (B. M.)
[Compare the
Report of
Proceedings
in the House
of Commons,
Feby. 1621.
(*Parl. Hist.*,
vol. i, c. 1188-
1194).]

The next question which it was Sir Robert's task to discuss before the Privy Council was a much more momentous question than that of the Coinage. It was, potentially, both to Sovereign and to people, an issue of life or death.

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COTTON.

DISCOURSE
ON THE
CALLING OF
A PARLIA-
MENT.
1628. Jany.

MS. LANSD.,
254, ff. 258,
seqq.

In January, 1628 [N. S.], he delivered, at the Board, the substance of the remarkable Discourse which has been more than once printed under the title, '*The Danger wherein this Kingdom now Standeth, and the Remedy.*' The courtliness of its tone no more detracts from its incisiveness of stroke, than a jewelled hilt would detract from the cleaving sweep of a Damascus blade, when wielded by well-knit sinews. It led instantly to the calling of the Parliament. But neither its essential and true loyalty to the King, nor the opportune service which it rendered to the country was to make the fortunes of its author any exception to those which—sooner or later—befell every councillor of CHARLES the FIRST, who, in substance if not in form, was wont to put Country before King.

In that third Parliament of CHARLES Sir Robert himself had no seat. In the Parliament which preceded it he sat for Old Sarum, having lost his seat for Huntingdonshire. But he continued to be the active ally and the influential councillor of the leaders of opposition to strained prerogatives. When the Parliament assailed Bishops NEILE and LAUD, the inculpated prelates, it is said, threw upon COTTON as much of their anger as they well could have done had he led the assault in person.

THE 'PROPO-
SITION TO
BRIDLE PAR-
LIAMENTS.'
1629.
October.

The opportunity was not very far to seek. Not long after the dissolution in March, 1629, of that Parliament of the assembling of which Sir Robert COTTON's patriotic effort had been the immediate occasion, and to some of the effective blows of which he had helped to give vigour, some courtier or other brought to CHARLES' hands a political tract, in manuscript, and told him that copies of it were in the possession of several statesmen. Those—with one exception—who were then named to the King were men wont to be held in greater regard in the country than at

Court. The pamphlet bore for its title: '*The Proposition for Your Majesties Service . . . to secure your Estate and to bridle the impertinencie of Parliaments.*'

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COTTON.

The consequences of this small incident were destined to prove of large moment. The earliest mention we have of it occurs in a letter written by the Archbishop of York—himself a Privy Councillor—to Sir Henry VANE, in November, 1629: 'The Vice-Chancellor,' says Archbishop HARSNET, 'was sent to Sir Robert COTTON to seal up his library, and to bring himself before the Lords of the Council.' In the words that follow the Archbishop is evidently speaking from what he had been told, not from his personal knowledge. 'There was found,' he proceeds to say, 'in his custody a pestilential tractate which he had fostered as a child, containing a project how a Prince may make himself an absolute tyrant. *This pernicious device he had communicated to divers n. Lords.*'

*Domest.
Corresp.,
Charles I.,
vol. cli, § 24.
(R. H.)*

CHARLES was presently in intense excitement about the matter. Its next stage cannot be better or more briefly told, than in the words which the King himself addressed to his assembled Councillors—in unusual array, for they were twenty-one in number—and afterwards caused to be entered upon the Council Book:

'This day His Majestie, sitting in Counsell, was pleased to imparte to the whole Boarde the cause for which the Erles of CLARE, SOMERSET, and BEDFORDE, Sir Robert COTTON, and sundry other persons of inferior qualitie, had bene lately restrained and examined by a speciall Committee appointed by him for that purpose, which cause was this:—

1629.
15 Nov.
[*Council Register*, vol. v,
p. 495.]

'His Majestie declared that there came to his handes, by meere accedent, the coppie of a certain "*Discourse*"

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COTTON.

PROCEED-
INGS
AGAINST
SIR ROBERT
COTTON IN
THE PRIVY
COUNCIL.

or "*Proposicion*" (which was then, by his commandement, read at the Boarde), pretended to be written "for His Majesties service," and bearing this title—" *The Proposicion for Your Majestie's Service conteineth twoe partes: The one to secure your Estate, and to bridle the impertinencie of Parlements; the other to encrease Your Majestie's Revenue much more then it is.*"

' Now the meanes propounded in this Discourse for the effecting thereof are such as are fitter to be practised in a Turkish State then amongst Christians, being contrarie to the justice and mildnesse of His Majestie's Government, and the synceritie of his intentions, and therefore cannot be otherwise taken then for a most scandalous invention, proceeding from a pernicious dessein, both against His Majestie and the State, which, notwithstanding, the aforesaid persons had not onely read—and concealed the same from His Majestie and his Counsell—but also communicated and divulged it to others.

' Whereupon His Majestie did farther declare that it is his pleasure that the aforesaid three Erles, and Sir Robert Cotton, shall answer this their offense in the Court of Star Chamber, to which ende they had alreadie bene summoned, and that now they shoulde be discharged and freed from their restraint and permitted to retourne to their severall houses, to the ende that they mighte have the better meanes to prepare themselves for their answer and defense.

' And, lastly, he commanded that this his pleasure should be signified by the bearer unto them, who were then attending without,—having, for that purpose, bene sent for. His Majestie, having given this Order and direccion, rose from the Boarde, and when he was gone, the three Erles were called in severally and the Lorde

Keeper signified to each of them His Majestie's pleasure in that behalfe; shewing them, with all, how gratically he had bene pleased to deale with them, both in the maner of the restraint, which was only during the time of the examination of the cause (a thing usuall and requisite specially in cases of that consequence), and in that they had bene committed to the custodie of eminent and honorable persons by whom they were treated according to their qualities; and lykewise in the discharge of them now from their restraint that they may have the better convenience and meanes to prepare themselves for the defense of their cause in that legall coursse by which His Majestie had thought fit to call them to an account and tryall.

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COTTON.

'The like was also signified by his Lordship to Sir Robert Cotton, who was further tolde that although it was His Majestie's pleasure that his Studies' [meaning, that is, his Library and Museum,] 'shoulde, as yett, remaine shut up, yet he might enter into them and take such writtings wherof he shoulde have use, provided that he did it in the presence of a Clerke of the Counsell; and whereas the Clerke attending hath the keyes of two of his Studies he might put a seconde lock on either of them so that neither dores might be opened, but by him and the said Clerke both together.'

Council
Register,
Chas. I, vol
v, ff. 495, 496
(C. O.).

A reader who now looks back on this singular transaction—and who has therefore the advantage of looking at it by the stern-lights of history,—will be likely to believe that the chief offence of the pamphlet lay (in a certain sense,) in its truth. It was the much too frank exposition of a policy which clung very close to CHARLES' heart, though he could ill afford—in 1629—to have it openly avowed. The undeniable fact that this '*Proposition for*

CHARACTER
AND AU-
THORSHIP OF
THE 'PRO-
POSITION TO
BRIDLE PAR-
LIAMENTS.'

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COTTON.

Your Majesty's Service ' was indeed fitter for the latitude of Constantinople, than for that of London, sounds but awkwardly on the royal lips, when connected with an assertion (in the same breath,) of the 'justice and mildness' of the King's own government. The indictment which his Parliament brought against CHARLES,—and which History has endorsed,—could hardly be packed into briefer words than those which the King himself used that day at the Council Board. His notions of kingly rule, like his father's, were in truth much better suited for the government of Turkey than for the government of England.

Sir Robert COTTON, however, had no more to do with the authorship of the '*Proposition*' than had CHARLES himself. The author was Sir Robert DUDLEY. The time of its composition was at least fifteen years before the date of the imprisonment of COTTON and his companions in disfavour. The place of its birth was Florence. It cannot even be proved that COTTON had any personal knowledge of the fact that the offensive tract had been found in his own library. He had recently read it, indeed,—in common with BEDFORD, CLARE, and Oliver SAINT-JOHN, and no doubt, like them, had read it with many surging thoughts,—but he had read it in a recent transcript, written by a clerk.

Of Robert DUDLEY's motive in writing his '*Proposition*' we have also no proof. But the presumptive and internal evidence is so strong, as to make proof almost superfluous. The tract bears witness, between the lines, that it was composed to win the favour—or at least to arrest the despoiling hand—of King JAMES. And there is hardly a suggestion in it which might not be backed by some parallel passage in the writings, or the speeches, of JAMES himself, when expatiating on kingly prerogatives in

some mood of mind a little more foolish than usual, or when striving—only too successfully—to train up his successor to follow in his own path. It seems like an irony of Fate to find that (in all probability,—for here again the proof is not quite clinching,) the King's informer, against COTTON and the other offenders, was WENTWORTH, who, not many years after 1629, was to sum up views of policy much akin to Robert DUDLEY's in the memorable word '*Thorough*.'

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COTTON himself believed that this apparently trivial incident cost him his life. He said not long before his death,—‘It has killed me.’ We shall probably never know whether DUDLEY's tract had anything to do with bringing about in the mind of WENTWORTH that eventful change of political views which is known to have passed over it (about the time when the incriminated manuscript was sent so eagerly from hand to hand), and which, in a few years more, was to work his death also. But one can hardly avoid, in passing, a momentary thought on the curious possibility that a pamphlet, written at Florence, in the hope that it might save, for the writer, some wreck or remnant of a despoiled inheritance,—may have proved fatal alike to the close political friend of ELIOT, and to the close political friend of LAUD. A tract of such potency may well claim a few words about its contents. They bear in every line the stamp of mental energy, and also the stamp of moral recklessness.

Sir Robert DUDLEY knew well enough that a rooted dislike of Parliaments was, in JAMES's mind, combined with a besetting dread of them. He knew that, between hate and fear, a Parliament was like a nightmare, for ever crouching behind the royal pillow. It is the purpose of his tract to tell the King how to drive the nightmare

CAREER OF
SIR R.
DUDLEY,
(THE TRUE
AUTHOR).

BOOK I.
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 DUDLEY.

away. He recommends, amongst other and minor measures, the erection of a strong fortress in all the chief towns of the Kingdom, to be manned by trained bands, and to be placed in such situations as shall command the high roads. In addition to these measures, your Majesty, he says, must set up a strict system of passports, for travellers. Nor is all this merely a new and more elaborate version of the old story of belling the cat. The writer of this counsel knows, perfectly, that already the King's poverty is the Parliament's power; and that to build fortresses and array soldiers needs a full purse, not an exhausted one. But he says,—as WENTWORTH said after him,—that soldiers can be set to work upon good hopes of the pay to come. A resolute King, he thinks, with resolute troops at his back, could do in England what had so often been done in Italy. He could tithe men's estates. He could make salt and some other things of prime necessity a royal monopoly. He could set a tariff on dignities of honour. He could establish sumptuary laws, such as should make the vanity and jealousy of thriving nobodies—men with full pockets and blank pedigrees—willing contributors to the King's Exchequer. He could buy up improvident leases of Crown lands, and resell them at a large profit.

The shortsightedness of such advice as this is now obvious enough. But advice quite as shortsighted and far less plausibly couched,—for the eyes that were to read it,—had been fruitful of result, when offered to Stuarts. Nor was the man who now offered it to CHARLES a mere clever talker. He was a man who had already acquitted himself with conspicuous ability in several spheres of action, lying widely apart.

Sir Robert DUDLEY possessed many splendid accom-

plishments. He had been educated by the same ripe scholar who afterwards became tutor to Prince HENRY. At the age of one and twenty, he had put himself into the lists with RALEGH, as navigator and discoverer, by heading an expedition to the Oronoco. In the course of that expedition he had captured nine Spanish ships; one of them of twice his own strength. At three and twenty, he had fought, side by side with RALEGH, in the naval battle in the bay of Cadiz; had handled his ship with an ability which won the praise of his rivals; and had then fought, in the land attack, side by side with ESSEX. When his own unbridled passions and resentments gave a fatal opening for the equally unbridled cupidity of JAMES, and of JAMES's courtiers, to despoil him of a great estate, and to drive him into exile, he showed that he knew how to snatch honour out of defeat. He laid the foundation of a new English trade with Italy and created—it is not saying too much—the maritime prosperity of Leghorn. He drained vast Italian marshes, and made corn to grow where corn had never grown before. The man who, in early life, had won fame at once as a navigator full of pluck and resource, and as an able soldier by sea and land;—and who, on attaining full manhood, had shown himself both a clever diplomatist and a great engineer;—did not go to his foreign grave before he had won literary fame with the pen, and scientific fame at the furnace of the chemist. He had, in its fullest measure, the versatility and the energy of his race. English family biography, I suppose, can scarcely show a stranger group of lives than the successive lives of the last four DUDLEYS of that line:—Edmund, the Minister of HENRY VII, and author of *The Tree of the Commonwealth*; NORTHUMBERLAND, the subduer of EDWARD VI, and the murderer of Jane GREY; LEICESTER, the Favourite of

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THE CAREER
OF SIR
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DUDLEY.

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ELIZABETH; Sir Robert, the self-made exile, and the maker of Leghorn. Whilst English history, in its long course, can scarcely match the fatality which seems to have foredoomed powers of mind and strength of will, such as are rarely repeated in four successive generations, to teem with evil instead of good for England.

Such, in few words, was the career of the man, the forgotten production of whose pen was to shorten the life of a statesman whose only connection with it—so far as the evidence goes—lay in the fact that a copy chanced to turn up in his library; fell under the keen eye of a lawyer who thought that something might be made of it; and was then copied—probably by some clerk, who was in the habit of making transcripts for students to whom money was less precious than time.¹ In some points of the story

¹ *Registers of the Privy Council*, James I, vol. v, pp. 484, 485, 489; Nov. 3-5, 1629. (C. O.) *Domestic Correspondence*, James I, vol. cli, § 24, § 69, *seqq.*, and vol. clii, § 78, *seqq.* In this last-named document the following passage occurs. The writer is Richard James, who for very many years was Librarian to Sir Robert Cotton, and he is writing to Secretary Lord Dorchester.—‘About July last, I was willed by Sir Robert Cotton to carry him [Mr. Oliver Saint John] into the Upper Study and there let him make search among some bundles of papers for business of the Sewers. . . . If he (St. John) did make any mention of a projecting pamphlet there pretended to be found, so God save me as I entered into no further conversation of it. Neither can I believe that any such as this now questioned was ever in keeping with us, or ever seen by Sir R. Cotton until, of late, he received it from my Lord of Clare. For myself, let not God be merciful unto me if, before that time, I ever saw, heard, or thought of it’ (R. James to Dorchester, vol. 152, § 78). (R. H.) There is also some further information on the subject in MS. Harl. 7000, ff. 267, *seqq.* (B. M.) A considerable number of the letters of Richard James to Sir Robert Cotton, his friend and benefactor, are preserved in MS. Harl. 7002. But these throw no satisfactory light on the incident of 1629. I believe, however, that to an observant reader they will be likely to suggest the idea that Richard James knew more

there is still considerable uncertainty. But so much as this seems to be established. How the tract came, at the first, into Sir Robert Cotton's library there is no evidence whatever to shew.

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It is not the least curious point in this transaction that the Earl of SOMERSET should have been mixed up with it. He had been released from the Tower almost eight years before (namely, on the 28th of January, 1622), but was prohibited from living near the Court. At first, he was ordered to restrict himself to one or other of two old man-sions in Oxfordshire—Caversham and Grey's Court. Afterwards, his option was enlarged, by including, in the license, Aldenham, in Hertfordshire. It is evident that, after

Council
Registers,
James I,
vol. v, pp. 230,
425 (C. O.).

than he was willing that Sir Robert should know. The letters are without dates, after the fashion of the times, and this adds to their obscurity. But one thing is plain. The writer ran away from London, either when he knew that the first inquiry was imminent or thought it probable that a renewed inquiry would be set on foot. In one of these letters, after many professions of attachment, he writes thus: 'From you, at this time, I should not have parted, *if the exigence and penurie of my life had not forc'd a silent retreat into myself, and my owne home at Corpus Christi College;*' and then, a fit of poesy—such as it was—coming over him, he ends his letter metrically, as thus:

'The poore young Russian youth, that slave
Was to the Prince, and trustie knave
To my deere Harrie Wilde, when wee
Forsooke that Northern Barbarie,
Loe bending at my feete did saye
Thancks for my love, and kindly praye,
His evils that I would not beare
In minde,—the which none, truely, were.
This youth I well remember, and
In neere, loe, manner kisse your hand;
Hoping, of gentle courtesie,
You will no worse remember me.'

—MS. Harl. 7002, f. 118.

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BUCKINGHAM's death, he began to hope that a political career might be still possible for him. And statesmen like BEDFORD and CLARE—as well as COTTON—kept up with him a correspondence.

More than once or twice, coming events had cast their preliminary shadows over Sir Robert, in relation to the very matter which so vexed his heart in the winter of 1629. 'Sir Robert COTTON's Library is threatened to be sealed up' is a sentence which made its occasional appearance in news-letters, long before King CHARLES hurried down to the Council Chamber to vent his indignation on the handing about of DUDLEY's '*Proposition to bridle Parliaments.*'

BEN JONSON
AND THE
VERSES TO
FELTON.

One cause of the rumour lay doubtless in the known enmity between BUCKINGHAM and the great antiquary. This enmity, on one occasion, brought BEN JONSON into peril. Ben was fond of visiting Cotton House. He liked the master, and he liked the table; and he was wont to meet at it men with whom he could exchange genial talk. On one such occasion, just a year before the Florence pamphlet incident, some verses went round the table at Cotton House, with the dessert. They began, '*Enjoy thy bondage,*' and ended with the words '*England's ransom here doth lie.*' Only two months had then passed since BUCKINGHAM's assassination, and these verses were, or were supposed to be, addressed to FELTON. We can now imagine more than one reason why such lines may have been curiously glanced at, over Sir Robert's table, without assuming that there was any triumphing over a fallen enemy; still less any approval of murder. But there seems to have been present one guest too many. Some informer told the story at Whitehall, and JONSON found himself accused of being the author of the obnoxious verses. He cleared

Domestic
Corresp.
Charles I.,
vol. cxix,
p. 33.

himself; but not, it seems, without some difficulty and annoyance.

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The release from immediate restraint of the prisoner of November '29 was no concession to any prompting of CHARLES' own better nature. Fortunately for Sir Robert COTTON, his companions in the offence were peers. Their fellow-peers shewed, quietly but significantly, that continued restraint would need to be preceded by some open declaration of its cause. During the course of the proceedings which followed their release it was asserted—I do not know by whom—that not only had the '*Proposition*' been copied, but that an '*Answer*' to it had been either written, or drafted. And that the reply, like the original tract, would be found in Sir Robert's library.

This somewhat inexplicable circumstance in the story is nowhere mentioned, I think, except in a Minute of the Privy Council. The Minute runs thus:—

'A Warrant directed to Thomas MEWTAS, Esq. . . . and Laurence WHITAKER, Esq. [Clerks of Council] autorising them to accompanie Sir Robert COTTON, Knight, to his house and assist him in searching amongst the papers in his studie or elsewhere, for certaine notes or draughtes for an answer to a "*Proposicion*" pretended to be made "*for His Majesties Service*" touching the securing of His Estate, and also to seeke diligently amongst his papers, and lykewise the trunkes and chambers of Mr. JAMES, and [of] FLOOD, Sir Robert COTTON's servant, as well for anie such notes, as also for copies of the said "*Proposicion*," and for other wrytings, of that nature, which may import prejudice to the government and His Majestie's service.' The new search, it seems, had not the desired, or any important, result.

Council
Registers,
Charles I.;
vol. 5, pp.
493, 495.
1629.
Nov. 10.
Whitehall.
(C. O.).

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*Domestic
Corresp.
Chas. I.,
cixvii, § 66,
seqq. (R. H.)*

COTTON'S
DECLINE OF
HEALTH.—
THE ARTFUL
QUACK AND
THE WARY
PATIENT.

A year passed away. The proceedings in the Star Chamber proved to be almost as fruitless, as had been the vain, but repeated, searches which wearied the legs and perplexed the minds of Clerks of Council and of Messengers of the Secretary's office. But the locks and seals were still kept on the Cottonian Library. Sir Robert and his son (afterwards Sir Thomas) petitioned the King over and over again. But CHARLES had set his face as a flint, and would not listen. In vain he was told that the Manuscripts were perishing by neglect; and that, as they occupied some of the best rooms, the continued locking up made their owner to be like a prisoner, in his own house. In order to go into any one of them he had to send to Whitehall, to request the presence of a Clerk of the Council.

Under such circumstances it is not surprising that his friends noticed with anxiety his changed appearance. His ruddy countenance became sallow and haggard. It grew, says his associate D'EWEES, to be of 'a blackish paleness near to the semblance and hue of a dead visage.' His somewhat portly frame stooped and waned. Life had still some charms for him,—so long at least as he could hope even faintly, for an opportunity of returning, at last, to his beloved studies. He was told of the growing repute of a certain Dr. FRODSHAM, who combined (it seems) experiments at the retort and still of the chemist, with the clinical practice of the physician,—when he could get it. Sir Robert sent for him and desired that he would bring a certain restorative balsam, or other nostrum, that had become the talk of the town. The worthy practitioner preferred to send his answer in writing. With great frankness, he said to his correspondent: 'I have now an extraordinary occasion for money. . . . Neither is it my accustomed manner to distil for any body, without

some payment beforehand. So, noble Sir, if pleas you, send here, *by this berer*, £17 and 12s., for so much the druges will cum tow. I confes that way I worke is deare, yett must say, upon my life, that I will make' [you] 'as sound and able of body, as at thirty-five,—and' [this] 'within five weeks.' But the eye for which this naïve epistle was meant was an eye keen enough to detect the difference between corn and chaff. 'I did,' replied Sir Robert, 'expect something of fact, to make me confident; before I could venture either my trial or my purse. . . . Promises I have often met and rejected. Error of judgment must be, to me, of more loss than the money.'

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SIR ROBERT
COTTON.

MS. Harl.,
7002, fol. 318;
H. Frodsham
to Sir R.
Cotton
(B. M.).
A.

By way of addition to the combined anxieties of failing health, and of a bitter grief, there came now to be heaped upon COTTON'S shoulders the heavier burden of a conspiracy to assail his moral character.

Large as had been his expenditure on his noble collections, and openhanded as was his manner of life and of giving, Sir Robert COTTON was still wealthy. Some persons who had benefited by his repeated generosity thought they saw an opening, in the summer of 1630, to increase the gain by a clever and lucrative plot. The method they took reads, nowadays, less like a real incident in English literary biography, than like one of those—

. . . last, best, of the '*Hundred Merry Tales*'
Of how [a grave and learned sage] devised
To carry off a spouse that moped too much,
And cured her of the vapours in a trice ;

.
For now the husband—playing Vulcan's part,—
. started in hot pursuit
To catch the lovers, and came raging up ;
Cast then his net, and call'd neighbours to see
The convicts in their rosy impudence.

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THE CON-
SPIRACY OF
WILCOX AND
STEVENSON
AGAINST SIR
R. COTTON.

The victim of this plot was now in his sixtieth year. Whatever may have been the sins of his youth, there was obvious risk in a contrivance to extort money by telling such a tale as that, about a man the fever of whose blood must needs have abated; even had he not been already broken down under cumulative weight of the sorrow and hunger of the heart. The intended victim, too, was a man with troops of friends. But the conspirators, it is evident, thought that Sir Robert's known disgrace at Court would tell as a good counterpoise in their favour. A man already in circumstances of peril would, they thought, be likely to open his pursestrings rather than incur the burden of a new accusation.

On a June morning in 1630 Sir Robert Cotton received an urgent letter from an elderly woman—one Amphyllis FERRERS—who had the claim upon him of distant kinship, and upon whom, in that character, he had bestowed many kindnesses. The letter made a new appeal to his compassion; told him of the distresses of the writer's daughter—married not long before to a needy man—and besought him to pay them a visit; that he might judge of their necessities with his own eyes. Both mother and daughter lived together in Westminster, at no great distance from Cotton House.

Sir Robert paid the invited visit; was told of various family plans connected with the recent marriage, and, amongst other things, of a pressing need for some household furniture. When the talk turned upon furniture, he was asked to look, himself, at an upstairs room, and form his own opinion about the request. Both mother and daughter went up with him; but the three had hardly entered the room, when a loud battering noise was heard on the other side of the thin wall which separated them

from the neighbouring house. And, presently a still greater noise was heard from the rush of footsteps upon the stairs.

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The daughter, it seems, was not in the plot. Her husband had ostentatiously ridden away from the door on the previous morning, to go into the country, for an absence of some days;—exactly like a hero in *BOCCACCIO*. At night, he quietly returned, and took up his abode, by preconcert with his neighbours, next door. In the morning he lay with those neighbours in ambush. When they all tumultuously rushed up stairs—into the man's own abode—they were full of indignation at Sir Robert's wantonness; but,—unfortunately for their story—in their eager haste they entered the room almost as soon as he himself had entered it, with his two companions. Nevertheless, they persisted in their accusation; permitting, however, when the first burst of virtuous wrath had somewhat subsided, the appearance of a sufficient indication that they were not wholly averse from listening to a reasonable proposal. There was a way, and one way only, in which that fierce wrath might be appeased. Sir Robert, however, was indignant in his turn. The purse of the intended victim remained stubbornly closed.

There is no need to pursue the unsavoury narrative. Nor would so much of the story have here been told, but for the suggestion which lies within it that the rapid breaking up of Sir Robert's vigorous constitution was not perhaps due, quite exclusively,—as has been commonly believed*—to the malicious privation inflicted upon him by King CHARLES. For though he was successful in extracting, from the chief accuser himself, a confession of the falsehood of the charge, and an acknowledgment that the object of the

1680.
July—Decr.

* And as, it must be remembered, Cotton himself believed.

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*Cottonian
Charters, &c.,*
i, 3, seqq.;
MS. ADDIT.,
14049,
ff. 21—43.
(B. M.)

*Domestic
Corresp.,*
Charles I,
vol. clxvii,
§ 45, seqq.
(B. H.).

COTTON'S
DEATH.

Rowland, in
Pref. to the
Political
Satire en-
titled *Gon-
domar's
Transactions,*
&c.

COTTON'S
DEATHBED
REFLEC-
TIONS.

conspirators was to extort money, yet the matter brought him much toil and vexation of spirit. One of the latest acts of his life was to arrange the proofs of the conspiracy in due and formal array.* When he had done that, and had once again made an effort—as fruitless as the efforts which had been made before—for the recovery of his library, he seems to have prepared himself for death.

Sir Robert's repeated efforts to regain his Library were not unseconded by friends powerful at Court. But the King's stubbornness would not give way—till concession was too late. The Lord Privy Seal (the newly-appointed successor of WORCESTER, recently dead), was amongst those who interceded with CHARLES. A little before Sir Robert's death his Lordship sent to him John ROWLAND—one of his officers—to tell him that, at length, his mediation had been successful, and the King was reconciled to him. COTTON answered, 'You come too late. My heart is broken.'

COTTON, when he came to lie on the bed of death, had certain topics of reflection—of a secular sort—on which he might well look back with some measure of complacency. As a student of Antiquity he had been conspicuously successful. He had won the respect and reverence of every man in Europe who had proved himself competent to judge of such studies. And he had not been a selfish student. He had made his own researches and collections seed plots for Posterity. If, as a Statesman, he had missed his immediate aims more frequently than he had reached them, he

* Curiously enough, part of these documents, so carefully brought together by Sir Robert Cotton, remained with the Cottonian MSS., and part of them were severed from that collection for more than two centuries. Their recovery is one of the smallest of the innumerable obligations which the Department of MSS. owes to the care and far-spread researches of the late Keeper, Sir Frederick Madden.

had none the less rendered, on some salient occasions, brilliant public service. He had shewn, incontestably, that the true greatness of England lay near his heart.

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One of his contemporaries presently said of him—when told of his death—‘If you could look at Sir Robert Cotton’s heart “*My Library*” would be found inscribed there;—just as Queen MARY said “*Calais*” was printed deeply on hers.’ But the character impressed on every volume of that large collection which he so loved is ‘England.’ To illustrate the history, and to enlighten the policy, of Englishmen was the object which made COTTON, from his youth, a Collector.

On the other hand, when the inevitable deathbed reflections passed from things secular to things sacred,—and also from Past to Future,—there was very little room for complacency of any sort. A few years before, when a better and more famous man than COTTON lay in like circumstances, this thought came into his mind :—‘Godly men, in time of extreme afflictions, did comfort themselves with the remembrance of their former life, *in which they had glorified God*. It is not so in me. I have no comfort that way. All things in my former life have been vain,—vain,—vain.’

Those words were among Sir Robert COTTON’s own early recollections. When he was sixteen years of age some of the dying words of Philip SYDNEY were repeated in almost every manor-house of England, and at many a cottage fireside. Those particular words came under his eye, at the most impressionable period of his life. The document which has handed them down to us was preserved by his care.* Did the exact thought they embody, and the very

* It is COTTONIAN MS., Vitellius, c. 17, ff. 380, *seqq.*

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words themselves, come into his mind, as they well might, when he, too, lay upon his deathbed?

Be that as it may, such words in Sir Robert's mouth would have had a special fitness. And he knew it well. Happily, he also knew where to look for comfort. He found it, just as Philip SYDNEY—in common with many thousands among the nameless Englishmen who had passed away in the interval between 1586 and 1631—had found it before him. He could say, as SYDNEY said :—

‘My Faith is frail; Hope constant never,
Yet this my comfort is, for ever,
God saves not man for merit.’*

THE LAST
SCENE.

Not long before he died, COTTON said to a friend (after a long conference which he had held with Dr. OLDISWORTH, a Divine who spent many hours, from day to day, at his bedside) ‘*That* is such comfort as I would not want, to be the greatest monarch in the world.’ Bishop WILLIAMS—who passed the greater part of the last night in conversation with him—remarked, as he went his way in the morning, ‘I came to bring Sir Robert comfort, but I carry away more than I brought.’ To the last, however, the ruling passion of COTTON's nature asserted itself. He could forgive his persecutors, but he could not shake off the memory of the bitterness of the persecution. Turning to Sir Henry SPELMAN, he said: ‘Tell the Lord Privy Seal, and the rest of the Council, that their so long detaining my books from me has been the cause of this mortal malady.’ SPELMAN gave his message, and the ‘Lord Privy Seal’ himself hastened to Sir Robert's bedside to express his regrets.

* Verses entitled *Sir Philip Sydney lying on his Deathbed*; in MS. Chetham 8012 (Chetham Library, Manchester).

The interview was narrated to CHARLES, and presently the Earl of DORSET was sent, from the King himself. The new comforter came half an hour too late. The persecuted man had passed to his rest. He died, trusting in the one, only, all-sufficient, Saviour of sinful men. His death occurred on the 6th of May, 1631. His body was removed to Conington, and was interred with more than the usual demonstrations of respect. The inscription on his monument is printed at the end of this chapter.

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John Pory to
Sir Thomas
Puckering;
MS. HARL.,
7000,
fol. 310.

When Lord DORSET, on his arrival at Cotton House with the royal message, found that Sir Robert was already dead he turned to the heir. If the Earl has been truly reported, the terms in which he expressed his master's condolence and good wishes were ill-chosen: 'To you, His Majesty commanded me to say that, as he loved your father, so he will continue his love to yourself.' The comfort of the promise could not have been great. Sir Thomas' experiences of the rubs of life were, however, to come chiefly from the King's opponents; not from the King.

THE ROYAL
MESSAGE TO
SIR THOMAS
COTTON, 2nd
BART.

Pory to
Sir T. Puck-
ering, as
above.

His life was a quiet one, up to the time of the outbreak of Civil War. Until then, its most notable incidents grew out of the circumstance that it fell to his lot to serve as Sheriff of Huntingdonshire, during the busy year of 'Shipmoney.'

Sir Thomas COTTON was in no danger of being tempted to follow the example of HAMPDEN. The readiness with which he discharged the troublesome task of collecting the impost throughout his county probably laid the first foundation of a strong feeling of personal ill-will towards him, on the part of the lower class of the adherents of the Parliament, during subsequent years. He never ranged himself with the King's party. Neither would he take any promi-

own experience was destined to become a pregnant comment on that pithy text.

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His avoidance of all share in the task of punishing, by fine and imprisonment, those of his old friends and country neighbours who thought that the duty of loyalty to the Crown was still a duty, however glaring the faults of the man who, for the time, wore the Crown, was the primary offence given by Sir Thomas Cotton to the busy patriots who would fain have had him work with them as a fellow-sequestrator. His illness (as I have said) was doubtless real enough; but he also disliked the work, and took no pains to conceal his dislike. Medical advisers told him that Bedfordshire—where he also had property—was a better county than Huntingdonshire for a man who suffered from chronic ague and low fever. But Sir Thomas needed no adviser to tell him that, under the existing circumstances of the country and the times, Eyworth would be a much more satisfactory abode than Conington for a quiet-loving man who had other duties than those of a soldier, who abhorred civil war with all his soul, and who ardently desired such a solution of the current issues as would neither make the King a mere dependent on his Parliament, nor make the Parliament an absolute ruler over the kingdom. Sir Thomas went into Bedfordshire. Lady Cotton continued to abide at Conington. Very soon after his departure she received a summons, addressed to her husband, and couched exactly in these words: ‘You are assessed eight hundred pounds, according to an Ordinance of Parliament. The King and Parliament hath present use of these monies. Therefore, we pray you, send it up to us at Huntingdon on Saturday next.’ Before the receipt of this very summary ‘assessment,’ many of Sir Thomas Cotton’s horses, with a good deal of farm produce

1643.
16 August.

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The Pro-
ceedings of
the Hunting-
donshire
sequestrators
at Conington.

and other property, had been already seized, by measures more summary still. Meanwhile Sir Thomas had committed no act of delinquency; he had simply removed himself into another county. Payment was refused.

The sequel of the story depicts, in small, what was then passing at large over much of the length and breadth of England. The farmers on the Conington estate were told, in the plainest of words, that if they did not pay their rents 'to us at Huntingdon,' their moveables would be seized and themselves treated as 'delinquents.' Execution, in those days, followed hard on process; and little difference was made, either in word or deed, at the farms and at the manor-house. On one morning, Lady COTTON was visited in her bedchamber—before she could dress—by five troopers, who, under her own eyes, broke open her drawers and trunks, and carried off what they thought meet. On another, one of Sir Thomas' confidential servants received a similar visit; had his papers rifled in a like fashion, and his apparel stolen. At the stables and out-offices scarcely any three days passed, during the entire summer of 1643—from May to August—without some raid or other for plunder. For much of this there was scarcely the semblance or the pretext of a legal warrant. During those saturnalia of 'liberty' there was, virtually, no judge in England, and not a few men did whatsoever seemed good in their own eyes.

Sir Thomas COTTON was old enough to remember the early stages of the long conflict of which—in 1643—this was seemingly the upshot. In the Parliament at Oxford he had sat beside his father and his father's friends. His correspondence at this time—so far as it appears to have survived—deals merely with the passing events. It con-

tains, I think, no disclosure of any reflections which may have crossed his mind on the principles which underlay them. He was probably shrewd enough to see already that the grossness of the current abuses of popular power carried with it no scintilla of valid blame upon the first leaders in that conflict—the real issues of which were still far off. What he, in common with so many of the best gentlemen in England, was now smarting under was the consequence rather of the royal triumphs of CHARLES' earlier years, than of the royal defeats of his later years. Had the policy of Robert COTTON and of John ELIOT prevailed a quarter of a century sooner, there would (very probably) have been no county committees of sequestrators; no political scaffolds at Whitehall; no ruling of England by brute force under artificers suddenly transformed into generals; no wholesale massacres in Ireland, fraught with mischief for the whole empire during centuries to come.

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Be that however as it may, things were not yet at so bad a pass, but that a curb could, now and then, be put on the necks of such busy patriots as those who sat in perpetual Committee at Huntingdon. Redress was impossible; seeing that the plunder was dissipated almost as fast as it was made. But, in Sir Thomas COTTON's case, it was found practicable to put a check on its progress. He invoked the aid of a powerful friend, Henry, Earl of Manchester, who represented the authority of the Parliament in Huntingdonshire. The Earl summoned the Sequestrators to show cause for their raids on Conington. He held a court. The new functionaries were brought—after some ineffectual bluster—to confess that they knew of no act done by COTTON which brought

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COTTON.

*Proceedings
in the Seque-
stration of the
Estate of Sir
T. Cotton ;
MS. Addit.,
5012, ff. 84,
seqq*

him within purview of the Parliamentary Ordinance, nor of any other legal cause to subject him to sequestration. As the words of confession were on the lips of one active Committee-man, another functionary blurted out—most felicitously—‘You are wrong. Master Serjeant Wilde wished it should be done.’ And, in the sequel, ‘Master Serjeant’ proved to be strong enough to protract the inquiry, and even to procure its adjournment to London ; though his attempt to maintain the sequestration—on a plea the falsehood of which was conclusively proved—came at last to be entirely foiled.

*ib., ff. 71,
seqq.*

When Sir Thomas Cotton came to sum up his losses he found that they amounted to more than four thousand pounds (in the money of that day). ‘They have had,’ he wrote, ‘£1500, in money ; besides eleven horses, worth £140 ; Billeting at Conington, Eyworth, and other places, which came to £100 ; spoil made at Sawtrey and at St. Germans which £300 will not make good ; and besides the decay of my rents to an amount of at least £600 a-year ; and now the layers and taxes will take up the whole of Ladyday’s rent.’ Meanwhile his unlucky tenants, in Huntingdonshire alone, had been deprived of a hundred and ninety horses, and their farms had been stripped both of provisions and of forage.

ib., 74.

THE AT-
TEMPT TO
BURN ON
COTTON
HOUSE.

By way of pleasant diversity to his troubles in Huntingdonshire and Bedfordshire Sir Thomas received, presently, a letter from John SELDEN—the old and warmly-attached friend of his family—warning him that the capabilities of Cotton House in London had caught the eye of certain other Committee-men, and had made a deep impression on them. They saw that it would do capitally both as a lodging house for the entertainment of distinguished strangers who might come to Westminster, to wait on the

Parliament, and as a State prison for very eminent delinquents. These watchful Committee-men were also members of the Council of State; and the time had now come when King JAMES' sarcastic and well-remembered jest—'Bring me sax chairs, for I see sax kings approaching'—was turning itself into a very awkward fact. These Committee-men, too, (like their humbler fellows at Huntingdon,) had their Serjeant at hand to give them advice on elastic points of law. 'Serjeant DENDY,' wrote SELDEN, 'fairly told me that the Committee and Council were informed that, by the Patent under which you claim, it was provided that your interest [in Cotton House] should cease, *during the time of the Parliament.*' Certainly, an awkward clause to appear in a man's lease, in days when a Parliament, beginning its 'time' in 1641 had not quite ended it until 1660. This claim of the Council of State proved, in the sequel, to have in it no more of real validity than had that other claim to procure the Conington rents to be paid 'to us at Huntingdon'; but, like that, it gave Sir Thomas COTTON a good deal of annoyance before he succeeded in getting quit of it.

It is much to his honour that petty but cumulative misfortunes like these did not sour Sir Thomas COTTON's temper. When quieter times came, he showed himself the worthy son of his eminent father, both by the improvement of his library, at considerable charge, and by the liberality with which he lent his choicest manuscripts, and, in many ways, made them and his other collections serviceable to literature. The still extant acknowledgments of service of this sort from historians and great scholars are very numerous.*

* I had noted some of these as worthy, by way of sample, to be printed. But the reduced limits of my book (as compared with

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Selden to Sir
T. Cotton; in
an Appendix
to Cotton
MSS. marked
'16.1.' fol. 50
(B. M.)

X I.
 p. II.
 r Sec-
 FORD OF
 ROBERT
 TON.

By his first marriage with Margaret HOWARD, daughter of William Lord HOWARD of Naworth, Sir Thomas had one son and two daughters. By his second marriage with Alice CONSTABLE he had four sons, two of whom died without issue. Alice was the daughter and sole heir of Sir John CONSTABLE of Dromondley in Yorkshire, and the relict of Edmund ANDERSON of Eyworth and of Stratton in Bedfordshire, and she brought with her a considerable dowry.

- 2) Sir John COTTON, the eldest son of the first marriage, its plan) have compelled the omission of much illustrative matter which had been carefully prepared for insertion, and which, as I hope, would have been found to merit the attention of the reader. I will find room, however, to mention one little fact connected with the famous Evangeliary marked 'Nero D. vi.' The reader probably remembers Sir Robert COTTON's fruitless perambulation of the aisle of Westminster Abbey, with that splendid MS. in his hands, on the day of the Coronation of Charles the First. It seems likely that the anecdote was told to Charles the Second when, at length, a like ceremony was to take place for him. Be that as it may, he sent—before he had been many days in England—a confidential servant to borrow the book from Sir Thomas. And the fact of the loan stands recorded on a fly-leaf, by the King's intermediary, in honour 'of the most noble Sir Thomas COTTON, the starre of learning and honestie.' The MS., I may add, is one of those which came to Sir Robert from Dethick (Garter). It bears Dethick's autograph with the date '1603' and Cotton's, '1608.' Besides the Four Gospels it contains *Processus factus ad Coronationem Regis Ricardi Secundi*, and *Modus tenendi Parliamentum*. For some momentary fancy or other Sir Robert took out of another superb MS. of his—the *Psalter* of King Henry the Sixth—a small but beautiful miniature, and made of it a vignette for this Ethelstan volume. So it continued to remain for two hundred and forty years, when Sir Frederick Madden restored the miniature to its more legitimate place (Dominican A. xvii, fol. 96*.) Had this Nero volume chanced to have been scrutinized at the moment when it was Sir Robert's fate to be stigmatized as 'an embezzler of records,' it is very possible that it might have been called to bear witness for the charge. For it is undeniable that the 'RO. COTTON BRUCEUS' is written over an erasure. (The signature occurs on the beautiful dedicatory page—'Beatissimo Papæ Damaso Hieronymus.') But, fortunately, the descent of the book can be traced clearly.

sat in Parliament for the borough of Huntingdon in the reign of CHARLES THE SECOND, and for Huntingdonshire in that of JAMES THE SECOND. But he took no prominent part in public affairs. Like his father he was twice married. And his first wife became step-daughter as well as daughter-in-law to his father, being Dorothy, daughter and heir of Edmund ANDERSON of Eyworth above mentioned. His second wife was Elizabeth HONYWOOD. He seems to have resembled his father both in his tastes for a quiet country life, and in the liberality with which he allowed (on reasonable cause and to proper persons) access to his library. Nor did Sir John, any more than Sir Thomas, escape animadversion, when he allowed himself to form his own judgment of the fitness or the timeliness of any particular application. Caustic Symonds D'EWEs writes down Sir Thomas COTTON as 'unworthy to be master of so inestimable a library.' Caustic Bishop BURNET writes in his turn of Sir John COTTON: 'A great Prelate had possessed him with such prejudices against me that . . . he desired to be excused' [from granting BURNET admittance to the Cottonian Library] 'unless the Archbishop of Canterbury or a Secretary of State would recommend me as a person fit to have access.' Against strictures such as these, it were easy, but is not needful, to adduce a score of acknowledgments of deep obligation, from writers more eminent by far than either D'EWEs or BURNET.

The eldest son (also John) of Sir John COTTON, by his wife Dorothy, did not live to inherit either the famous library or the ancestral estates. He died in 1681, and his later days seem to have been marked by some stormy incidents. In one point, his troubles resembled those which disturbed the last year of his great-grandfather's life;—in so far as that they were caused by a lady. But whereas

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*Autobiog. and
Corresp.*,
vol. ii, p. 40.

*History of
the Reforma-
tion*, vol. iii,
Introd., p. 8.
(Edit. of
1714.)

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Sir Robert had the lady thrust upon him, to suit the purposes of other men, the misfortunes of his great-grandson appear to have grown out of an ardent but illicit passion—as ardently, and not less illicitly, returned by its object. Some scraps of their correspondence which have chanced to be preserved read, after two centuries of dusty repose, as if they were still all aflame with that fierce love which an experienced poet describes as ‘passion’s essence.’*

Sir John COTTON survived till nearly the close of the seventeenth century. He was succeeded in the baronetcy and estates by John, the son of the last-mentioned John COTTON, who had married Frances, daughter and heir of Sir George DOWNING of East Hatley in Cambridgeshire. Sir John, fourth baronet, married Elizabeth HERBERT, one of the grand-daughters of Philip, Earl of Pembroke and Montgomery. Like his ancestors of many generations, this Sir John COTTON sat in Parliament for Huntingdonshire. His chief claim to honourable memory is that he settled the Cottonian Library on the British nation for ever, and thus made its founder, Sir Robert, the virtual and first FOUNDER OF THE BRITISH MUSEUM. This was done by Act of Parliament, in the year 1700.

* Take, for example, these few lines: ‘Sweete Sainte whome I soley addore,—at whooes srine I offer myself; I reseived your loving lines. . . . Without them, I could not live at all;—being deprived of your blessed sight, . . . I live yet, but most miserably. Use means, if it be possible, that we may come to the speech of one another; and the Heavens of Hope may be yet auspicious unto us. . . . Those deviles have again been writing letters unto my mother.’ In 1679, it would seem, the two ardent lovers were kept in a sort of honourable imprisonment. On COTTON’s coming to Cotton House, in the spring of that year, an upper servant of the family writes thus to a correspondent: ‘I advised him to call for money; take a coach and go about to take the air, and to visit his friends that are in or about the town; and not to be mewed up in a room, without money or company.’—John SQUIRES, to a person unnamed; in *Appendix to Cotton MSS.* ‘16, 1.’ (B. M.)

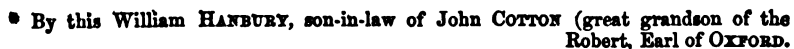
This eminent public benefactor died, in 1731, without surviving issue. The baronetcy then reverted to Robert the eldest son of the second marriage of the first Sir John Cotton, grandson of the Founder. From Sir Robert, fifth baronet, the dignity came, in 1749, to a fourth 'John Cotton' who then became sixth baronet and who was the last surviving male heir of his honoured line.

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COTTON.

Sir John had lost his only son—a fifth John—many years before his accession to the baronetcy, which, on his own death (27 March, 1752), became extinct. Conington had long previously passed to a younger son of Sir Thomas Cotton, second baronet; as shown in the following—

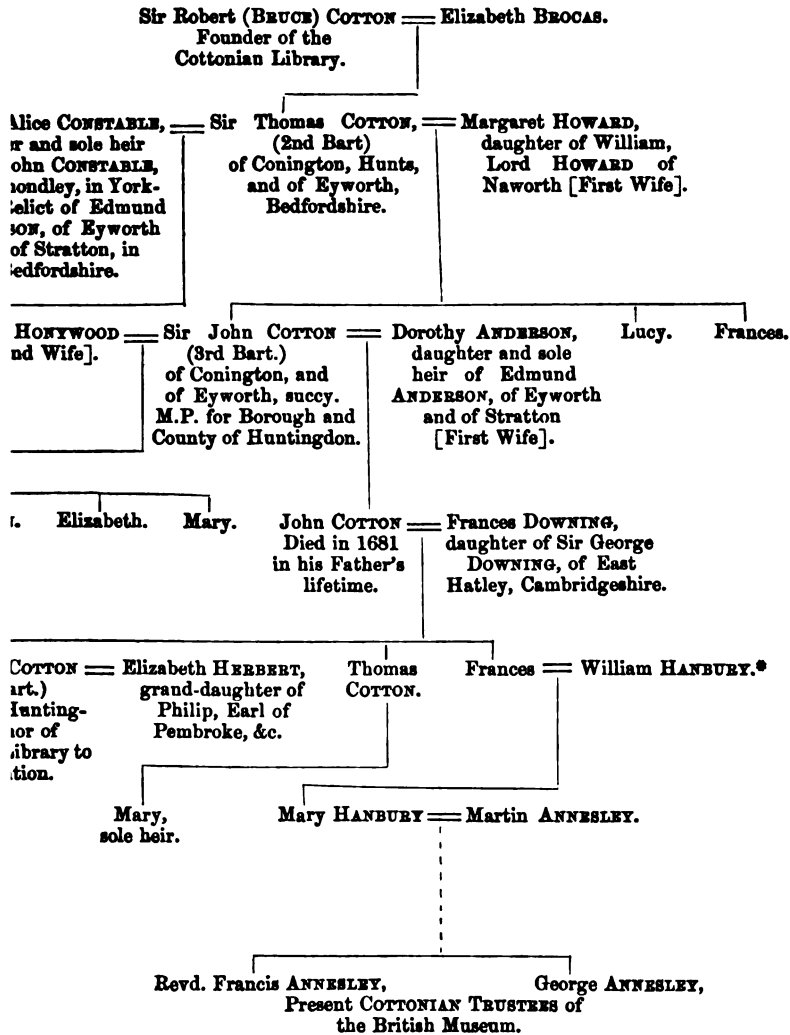
CONCLUSION

SHOWING ALSO THE DESCENT OF THE COTTONIAN



OF COTTON OF CONINGTON,

TRUSTESHIP OF THE BRITISH MUSEUM.



er), many Cotton MSS. were alienated—partly by sale and partly by gift—to
after, Chapter V.

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INSERTION
'THE OLD
STATE OF
CONINGTON.

The reader who glances at this pedigree will notice that some of the COTTONS of 1600-1750 were as fortunate in getting heiress-wives as had been their foregoers of preceding centuries. But their possessions were scattered almost as rapidly as they had been augmented. Conington, which was the most valued possession of Sir Robert, was less prized by his descendants. The Council Books show that some of its appendant manors and members—notably Glatton and Hulme—gave to the Founder himself a good deal of trouble. The Sequestration Books show the anxieties and losses which the busy Parliamentarians of Huntingdonshire inflicted on his next successor. Other circumstances tended also to bring the place into disfavour with owners who had a choice of seats. It lay so close to the great northern road, as to be exposed to undue demands alike from the movement of troops and from the tramping of professional vagrants. Nor was it less exposed, from its situation, to injuries by great floods. Long before the extinction of the male line, Conington was deserted, in favour of more attractive abodes in southern counties. We learn from a passage in Stukeley's *Itinerary* that the house was fast becoming a ruin, even in the reign of GEORGE the First; although it had been solidly rebuilt by Sir Robert himself.

'I thought it,' writes that antiquary, 'a piety to turn half a mile out of the road, to visit Conington the seat of the noble Sir Robert Cotton,—where he and Camden have often sat in council upon the Antiquities of Britain, and where he had a choice collection of Roman inscriptions picked up from all parts of the kingdom. I was concerned to see a stately old house of hewn stone, large and handsome, already falling into ruin.'*

* Stukeley's *Itinerary of Great Britain* (2nd edit. 1776).

PUBLIC ESTABLISHMENT OF THE COTTON LIBRARY. 139

By the Statute which established the COTTON Library as a national institution, it was enacted as follows: 'The Cottonian Library . . . shall be kept and preserved, in the name and family of the COTTONS, for public use and advantage. And therefore, according to the desire of the said Sir John COTTON, and at his request, the said Mansion House, . . . and also all the said Library, . . . together with all the Coins, Medals, and other rarities, . . . shall be vested in Trustees . . . with a perpetual succession.' The first Trustees were the Lord Chancellor SOMERS, Mr. Speaker HARLEY (afterwards Earl of Oxford), and the Lord Chief Justice, *ex officio*; together with Sir Robert COTTON, of Hatley St. George, Cambridgeshire; Philip COTTON, of Conington; Robert COTTON of Gedding, in Cambridgeshire, and William HANBURY, of the Inner Temple. It was provided that on the decease of any one of the four family trustees the heir male, for the time being, of Sir Robert COTTON, the founder, should appoint a successor.

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THE ESTAB-
LISHMENT
ACT OF 1700.

12 & 13
WILL. III.,
c. 7.

The furious party-spirit which at this time divided the country into hostile camps, the leaders of which were at any moment ready to fly at each other's throats, was eminently unfavourable both to the guardianship and to the growth of the new institution; as it was, indeed, to all matters of learning or of mental culture. Hardly seven years had passed before it was found necessary to pass '*An Act for the better securing of Her Majesty's purchase of Cotton House in Westminster.*'

This Act recites that since the preceding enactment of 1700 'very little had been done in pursuance thereof to make the said Library useful to the Public, except what had been lately done at Her Majesty's charge;' and that the place wherein the Library then was, being 'a narrow little damp room, was improper for preserving the books

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and papers.' The Act then proceeds to declare that an agreement had been made for the purchase of Cotton House for £4,500, 'to the intent that it might be in Her Majesty's power to make this most valuable collection useful to her own subjects, and to all learned strangers.'

THE FIRE AT
ASHBURN-
HAM HOUSE.

Within five years, however, this unfortunate Library had to be removed from Cotton House to Essex House, in the Strand (1712); and thence again, in 1730, to Ashburnham House, at Westminster (already containing the Royal collection), where it had not long been lodged, when the fire occurred by which it was so seriously injured. The account which the Parliamentary Committee of Inquiry gave to the Public, shortly after the occurrence of this calamity, runs thus:

'On Saturday morning, October 23, 1731, a great smoke was perceived by Dr. BENTLEY, and the rest of the family at Ashburnham House, which soon after broke out into a flame. It began from a wooden mantel-tree taking fire which lay across a stove-chimney that was under the room where the MSS. of the Royal and Cottonian Libraries were lodged, and was communicated to that room by the wainscoat and by pieces of timber, that stood perpendicularly upon each end of the mantel-tree.'

'They were in hope, at first,' continues the Committee, 'to put a stop to the fire by throwing water upon the pieces of timber and wainscoat, . . . and therefore did not begin to remove the books so soon as they otherwise would have done. But, the fire prevailing, Mr. CASLEY, the Deputy Librarian, took care in the first place to remove the famous Alexandrian MS. and the books under the head of Augustus' [twelve of the Cottonian presses, it will be remembered, were adorned by the heads of the twelve Cæsars, whence the still existing designations or press-

marks, as for instance, that of the famous *Evangelary of King Ethelstan*, NERO D. vi, mentioned on page 132] 'in the Cottonian Library, as being esteemed the most valuable amongst the collection. Several entire presses, with the books in them, were also removed; but . . . several of the backs of the presses being already on fire, they were obliged to be broke open, and the books, as many as could be, thrown out of the windows.' All the MSS. that were saved, and the remains of what been burnt, were removed to the Dormitory of Westminster School.

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At the time of this disastrous fire, the number of MS. volumes was 958. Of this number 114 were reported to be 'lost, burnt, or entirely spoiled; and 98 damaged so as to be defective.' Mr. Speaker ONSLOW took immediate measures, in conjunction with Dr. BENTLEY and Mr. CASLEY, for the examination of the burnt MSS., and for the repair of such as were then deemed alone reparable. Three months afterwards the Record Clerk to whom the task was more particularly committed, thus reports his progress: 'One hundred and upwards,' he says, 'being volumes of Letters and State Papers, have been quite taken to pieces, marked, and bound again.' But he laments that 'there having no way hitherto been found out to extend vellum and parchment that has been shrivelled up and contracted by fire to its former dimensions, part of several of the vellum MSS. must remain not legible, unless the desideratum can be supplied.'

1731
October.

*Report of the
Committee
appointed to
view the Cot-
tonian Li-
brary (1732),
pp. 11-15;
and Casley's
Appendix
thereto.*

For nearly a century some of the most precious of the injured MSS. remained as the fire had left them. But in 1824, by the care of Mr. FORSHALL, the then Keeper of the MSS. in the British Museum, a commencement was made towards their restoration, which his successor, Sir F. MADDEN, zealously and successfully continued. Nearly

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three hundred volumes have been repaired, and more or less completely restored, (a considerable number of which were previously regarded as beyond all hope of recovery) to a state of legibility.*

THE BE-
QUEST OF
ARTHUR
EDWARDS.

The calamity of 1731 brought about what may, in a sense, be termed a partial compensation, by inducing Major Arthur EDWARDS to make an important bequest, with the view of precluding its recurrence. Owing to the protraction of a life interest in the legacy—the terms of which will be cited in describing that eventual Act of Incorporation which created the British Museum—it did not become available until other arrangements had made its application to building purposes needless. It was, consequently, and in pursuance of the Testator's contingent instructions, appropriated to the purchase of books in the manner, and with results, which will be spoken of in a subsequent chapter. Major EDWARDS also bequeathed his own collection of about 2,000 volumes of printed books, by way of addition to the Cottonian Library of MSS. These, however, were not actually incorporated with the Museum collections until the year 1769.

THE KEEP-
ERS OF THE
COTTONIAN
LIBRARY.

For several years, BENTLEY conjoined the Keepership of the Cottonian with that of the Royal Library. His predecessors in the office were Dr. Thomas SMITH (hitherto the only biographer of the Founder,) and William HANBURY, who had married a descendant of the Founder. Dr. SMITH was less eminent as a scholar—though his learning was great—but far more estimable as a man, than was his successor in the

* Some of the burnt MSS. regarded, until Mr. Forshall's time, as hopelessly illegible, have been found very helpful to the preparation of the volume now in the reader's hands.

Keepership, the imperious and covetous Master of Trinity. For conscience sake, SMITH had given up both a good fellowship and a good living, at the Revolution. Literature profited by the loss of Divinity. He died in May, 1710. HANBURY—by a very undesirable plurality—was a Trustee as well as Keeper. That he was not, in either capacity, strictly faithful to the spirit of the Trust confided to him seems to be established by incidents which I find recorded in the MS. Diary of Humphrey WANLEY. The reader will observe that it is possible to reconcile WANLEY's statement with the supposition that the MSS. alienated had never actually been made part of the Cottonian Library, though it is as plain as sunlight that a really faithful trustee would have made them part of it. As it turned out, the sale of them did no actual and eventual mischief. On December 2nd, 1724, says WANLEY, 'I had a conversation with Mr. HANBURY, who owned that he hath still in his possession many original and valuable papers given him by his wife's brother, Sir JOHN COTTON, which now lie in different places. These papers and whatever else happens to be among them—as books, rolls, &c.—he hath agreed to put into my hands for my Lord's [OXFORD'S] use. I have promised that he shall be very well paid and considered for the same.'

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*Wanley's
Diary, MS.,
ii, 40 (B.M.).*

WANLEY had already recorded a previous visit in which HANBURY had delivered 'for my Lord OXFORD'S use, a small but curious parcel of old letters,' adding: 'I believe he expects a gratuity for them.' On the last day of December he received another parcel; and on the 4th January, 1725, he again writes: 'Mr. HANBURY gave me another parcel of letters written to Sir Robert COTTON.'

Without endorsing the violent diatribe of Lord OXFORD (the second of the Harleian Earls) against HANBURY'S

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successor—as the almost wilful destroyer of part of the Cotton MSS.—it must be admitted that there is conclusive evidence that neglect of duty on Dr. BENTLEY's part was a moving agent in the disaster. Under his nominal keepership the practical duties of Cottonian Librarian were discharged by an industrious and otherwise meritorious deputy, David CASLEY.

THE PRO-
JECT OF 1707
FOR UNITING
THE COT-
TONIAN,
ROYAL, AND
ARUNDEL,
LIBRARIES.

There were many projects for making Sir Robert Cotton's noble collections, both in literature and antiquities, the foundation of a 'British Museum,' before a feasible and successful project was hit upon. It is curious to note that one of these schemes embraced, as the groundwork of the projected national Museum, the collections of Sir Robert Cotton, of Prince HENRY, and of Lord ARUNDEL; and that some particulars of the plan were narrated—to a country correspondent—by Sir Hans SLOANE, almost fifty years before his own conditional bequest gave occasion and means for the eventual union of the collections so spoken of with the vast gatherings of all kinds, in literature and in science, to the procuring of which so large a portion of his own useful and laborious life was to be devoted.

Sloane to
Charlett,
7 April, 1707.
(Bodleian
Library,
Oxford).

When that occasion came, two of the then Cottonian Trustees framed a Petition to Parliament in which they expressed their acknowledgments for 'seasonable and necessary care' of the Cotton Library. They alleged that it had remained 'almost useless' to the Public, during many years, for want of a fixed and convenient building to receive it; that it had been exposed to many dangers by frequent removals, and had once run the hazard of 'a total destruction by fire.' If, said they, the loss which the Public then sustained proved to be less than had been feared, the Public owed the obligation 'to a great member

of this House' [of Commons] 'who powerfully interposed and assisted in its preservation.' The allusion is to the Right Hon. Arthur ONSLOW, the then Speaker, who afterwards became one of the first Trustees of the Museum established by the Act of 1753.

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The Petitioners proceed to state that their most earnest wishes are accomplished by seeing a Library, famed throughout Europe, with the generous gifts of Major EDWARDS annexed thereto, placed out of all further dangers from neglect, and that they rejoice to perceive that the Museum of their own Founder is about to be enlarged by other rare and valuable collections. 'We are,' say they, 'fully persuaded that an edifice raised upon such a stately plan will, by degrees, be stored with benefactions and become a common Cabinet for preserving with safety all curiosities and whatsoever is choice or excellent in its kind. Moreover, being a new institution for the service of the learned world it will be an honour to the Nation, an ornament long wanted in this great city, and a distinguished event in the history of our times.' Then follows the passage which I have prefixed, by way of motto, to this first division of the volume now in the reader's hands.

Petition of
Samuel Bur-
roughs and
Thos. Hart;
MS. in
Cottonian
'Appendix'
(B. M.).

Heretofore,
p. 8.

When these Petitioners went on to state to Parliament that 'no expression of gratitude can be too great . . . for doing honour to the memory of Sir Robert Cotton,' their assertion gave rise to no utterance of hostile feeling. They were not even charged with undue laudation of their ancestor. People who at that time troubled themselves to think of such matters at all, were agreed in regarding Sir Robert COTTON as unquestionably one of the worthies of England. Nowadays—as I have had occasion to show

RECENT
CHARGES
AGAINST THE
CHARACTER
AND FAME
OF SIR R.
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already—there are many gainsayers. A distinguished historian (Mr. GARDINER) asperses COTTON's character both for statesmanship and for truthfulness; whilst a distinguished archæologist (Mr. BREWER) charges him with embezzling records.

The first charge has been partly met, in these pages, by the simple apposition and collation of contemporary evidence. The reader has his choice between the cumulative testimony of several English peers and statesmen; and the unsupported testimony of one foreign diplomatist, who made it his boast to be the enemy of Englishmen, and whose hostility was graduated in tolerably exact accordance with the qualities and the deeds which have made England proud of them. The home witnesses gave their testimony whilst the events were still fresh in men's minds. They gave it in broad daylight, and with open doors. The foreign witness put his evidence into a secret dispatch, to be seen by no human eye, out of the Spanish Cabinet, until our own historian disinterred it, at Simancas, two centuries and a half after date. Nor is this quite all.

If GONDOMAR's account be true, not only was Sir Robert COTTON's life as a statesman a protracted lie, but his duplicity was so superbly cloaked as to deceive the most keen-sighted of his contemporaries. The men who sat habitually at his board in his days of health, and who ministered at his bedside in all the offices of tender friendship in his days of sickness and of death, were all wrong about his character. And there is this other little fact to boot: Sir Robert COTTON began his public life by as open a declaration of anti-Spanish policy in relation to the great question of the Netherlands as ever came from the lips of our RALEGH. He ended his public life with as staunch an adherence to the principles, both in Church and State,

*A Discours
whether yt be
fitt for Ing-
lande to
make pence
with Spaine.*
MS. Cott.
Vespas. C.
xiii, ff. 160,
seqq. (B. M.).

which the rulers of Spain abhorred as that which had been shown by RALEGH on the scaffold in Old Palace Yard, or by ELIOT in the dungeon of the Tower of London. Meanwhile, just in the mid-channel of his career, and in the prime of his faculties, Sir Robert COTTON threw himself, gratuitously, at the feet of GONDOMAR. He humbly asked leave to take Spanish service in the guise of a political slave. The historian's proposition is a bold one. And its evidence needs to be cogent. English readers now know quite enough about GONDOMAR to judge whether or not his sole testimony is sufficient to damn the fame of such a man as COTTON ;—to degrade him from the rank of an English worthy ;—to brand him as a criminal virtually convicted of apostacy in religion, and of treason to his avowed convictions in politics ? *

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* I have dwelt, somewhat protractedly, on this one interesting point in Cotton's history,—pressing as are the limits prescribed to this volume,—under the belief that many readers will bear in mind that Sir Robert's misfortune beneath the recent disinterment of ambassadorial despatches, written to foreign courts, is *not* an exceptional misfortune. Sir Walter Raleigh has fared still worse, in Mr. Gardiner's able hands, by being held up to public scorn as a knavish liar, upon the uncorroborated testimony of certain avowed and bitter enemies of England. See *Prince Charles and the Spanish Marriage* (1869), vol. i, Chaps. 1 and 2, *passim*. Readers of the admirable *History of England* by Mr. Froude—and who has not read that history ?—will easily call to mind several not dissimilar instances. Nor is it at all surprising that it should be so. The most warily judicial of intellects can never be quite independent of that factitious charm which there will always be—over and above the legitimate charm—in telling an old story from an entirely new point of view. If, besides the attraction of mere novelty, there should chance to have been a keen burst of search over a difficult country, before the eager searcher could succeed in running down his quarry, he would be more than human if, in the moment of victory, he could weigh and balance with exact precision the real value of the hard-won spoil. At present, historians are too keenly chasing after new evidence to be able to estimate quite fairly its relative importance or net result. The most part both of writers and of readers are far too busy over newly-discovered

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From the nature of things the second charge cannot be so directly, so compactly, or so effectively met. Almost a third of the manuscripts which form the most important section of the Cotton Library consist of, or contain, Papers of State. Of these a very considerable proportion once belonged to the State. How came they to pass into the hands of Sir Robert COTTON?

MR.
BREWER'S
ACCOUNT OF
SIR R.
COTTON'S
ACQUISITION
OF STATE
PAPERS.

By Mr. BREWER the question has been answered, unhesitatingly and exhaustively. Large portions of the Diplomatic Correspondence of HENRY THE EIGHTH were, he says, 'carried off in 1614, if not before, by Sir Robert COTTON. . . . The original bundles appear to have been 'broken up under the keepership of AGARDE, when the 'Treasury of the Exchequer was rifled of its most precious 'contents to augment the collections of Sir R. COTTON. ' . . . For the early years of HENRY, his [Sir Robert's] 'collections are more numerous, and even more interesting, 'than the documents in the English, the French, or the 'Spanish Archives. They are equally authentic. . . . By 'what fraud or negligence they found their way into the 'possession of Sir Robert COTTON it is not for me to 'inquire.'

*Calendar of
the State
Papers;
Reign of
Henry VIII,
Pref., pp. viii,
ix.*

No writer can be better qualified to speak with authority on such a topic as this than is Mr. BREWER. Familiar with State Papers and with records of all kinds for a very long period, he has won the deep respect of all students of our history by the uses to which his knowledge has been applied. But the ablest writer will sometimes write

materials to adjust with any approach to impartial fairness the vital question of comparative credibility. But the time for doing *that* must needs come, by and bye. Meanwhile, the fame of not a few of our old and true worthies will—in all probability—suffer some degree of momentary eclipse; just as that of Raleigh and Cotton has suffered.

hastily. The most impartial inquirer will now and then reach a conclusion by overleaping part of the evidence.

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The sweeping passage which I have quoted, like other passages in Mr. RILEY's preface to *Liber Custumarum*, previously noticed, leaves altogether out of view three or four whole classes of testimony—chains not links—having a vital bearing on the issue. For example—

I. It disregards the fact that certain bundles of State letters and papers were given by the King's order to Sir Robert COTTON, during the reign of JAMES THE FIRST. These, indeed, were commanded to be 'subscriptions and signatures of Princes and great men, attached to letters *otherwise unimportant*.' But who is to tell us what was the estimate of 'importance' in papers of State formed, two centuries and a half ago, by JAMES, who gave the order, or by Sir Thomas WILSON, who received it?

Sir T. Wilson
to King
James I,
*Domestic
Corresp.*,
vol. xcvi,
§ 41*, seqq.
(R. II.)

II. It disregards the fact that long before, as well as long after, that known order of 1618, Sir Robert's possession of papers once the property of the Government was so published and so recognized as to imply, by fair induction, that the possession must have been—as far as he was concerned—a lawful one. In his own writings, he iterates and reiterates reference to national documents then in his own collection. His references are specific and minute. Secretaries of State write to him, asking leave to inspect original Treaties (sometimes in order to lay them before the King in person) and promising to return them promptly. Law Officers of the Crown desire him kindly to afford them opportunities for collating public instruments, preserved at Cotton House, with public instruments still in the repositories of the Crown.

*Domestic
Corresp.*, as
above, 1621,
March; and
passim; also
Council Books
(C. O.).

III. It leaves out of sight the fact that in the correspondence of Sir Edward COKE with Sir Robert COTTON

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Sir E. Coke to
Sir R. Cotton;
MS. Cott.
Julius, ciii
(Undated;
probably
1612). (B.M.)

*Registers of
Privy Council,*
1616; 1629;
1630; *passim*
(C. O.)

*Signs
Manual,*
Charles I,
vol. xii, § 15
(R. H.).

s. g. MS.
Harl., 7002,
ff. 120, 122,
&c., MS.
Cott. Julius
ciii, *passim*
(B. M.).

there is a passage which also *implies*—though it does not expressly assert—that Sir Robert had received from King JAMES a permission to select records, of some kind or other, from the Tower of London, anterior to the qualified permission, above mentioned, given in 1618, to select ‘autographs’ from the Paper Office;

IV. It disregards that strong implication of a lawful possession—so far as Sir Robert COTTON, individually, is concerned—which necessarily arises out of the fact that at two several periods the Cottonian Library was under the sole control and custody of Crown officials; that it remained under such control for an aggregate period of more than two years; that COTTON’s bitter enemies were then at the head of affairs; that in 1630 a Royal Commission was actually issued ‘to search what Records or ‘other Papers of State in the custody of Sir Robert COTTON properly belong to His Majesty, and thereof ‘to certify;’ and that the existing Cottonian MSS., together with those burned in 1732, were, one year after the issue of that Commission, restored by the Crown to Sir Robert COTTON’s heirs;

V. It overlooks the circumstance, vital to the issue now raised, that amongst the MSS. which most indubitably were once Crown property many can still be minutely traced from possessor to possessor, prior to their reception into the Cottonian Library;

And VI. It disregards the fact, hardly less important, that a patriotic statesman conversant both with the arcana of government at large, and with the special arcana of the State Paper Office and Secretary’s offices, under King JAMES the First and King CHARLES the First, might have cogent reasons for believing that some important classes of State Papers would be likely to remain much more truly

and enduringly the property of the English nation if stored up at Cotton House—even had no ‘British Museum’ ever been created—than if stored up at Whitehall.

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Inferences and implications such as these are far from amounting to conclusive proof. But most readers, I think, will assent to the assertion that, cumulatively, they amount to a very strong presumption indeed that the stigma which has been impressed on Sir Robert COTTON’s memory is both precipitate and unjust. Precipitate it plainly is, for a confident verdict has virtually been pronounced—upon a grave issue,—before hearing any evidence for the accused. Unjust I, for one, cannot but think it, inasmuch as circumstances which at most are but grounds of mere suspicion of the greater offence charged, have been so huddled up with proofs of a minor and (comparatively) venial offence, that readers giving but ordinary attention to the allegations and their respective evidence are almost certain to be misled.

For, undoubtedly, Sir Robert COTTON stands convicted of dealing, more than once, with manuscripts which he had borrowed very much as though they had been manuscripts which he possessed. Mr. RILEY’s testimony is, on this point, conclusive. An independent witness, Dr. Sedgwick SAUNDERS, the able Chairman of the Library Committee of the Corporation of London, tells me that both the *returned* MS. of *Liber Custumarum*, and also that of *Liber Legum Antiquorum*, bear as unmistakable marks of a claim to ownership on Sir Robert’s part, as those of which the return was refused.

To such proofs as these I can myself add a new instance. Archbishop LAUD had procured, from the Principal and Fellows of St. John’s, the loan to Sir Robert COTTON of a

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Archbp.
Laud to Sir
R. Cotton,
MS. Cott.
Julius C., iii,
f. 282.

certain ancient Beda MS. of great value. Many years passed, and the MS. had not returned to St. John's. The Fellows cast severe blame on their eminent benefactor. LAUD had to petition his friend COTTON for the return of Beda, in terms almost pathetic; and he was so doubtful whether pathos would suffice that he added bribe to entreaty. If, he said, 'anything of worth in like kind come to my hands, I will freely give it you in recompense.'

Bolton to
Camden;
MS. Harl.,
7002, f. 396.

The reader has seen the abounding proofs of that generous furtherance of every kind of literary effort which COTTON gave, throughout life, with an ungrudging heart and an open hand. Sir ROBERT's openness made his library—to use the words of an eminent contemporary—the 'Common treasury' of English antiquities. The reader now sees also the drawback. It remains for him to strike a true balance; and to strike it with justice, but also with charity.

CHAPTER III.

THE CHIEF COLLECTOR AND THE AUGMENTORS OF THE OLD ROYAL AND PUBLIC LIBRARY AT ST. JAMES'.

'Death never makes such effectual demonstration of his power, as when he singles out the man who occupies the largest place in public estimation;—as when he seizes upon him whose loss is felt, by thousands, with all the tenderness of a family bereavement;—puts a sudden arrest, . . . before the infirmities of age had withdrawn him from the labours of usefulness;— . . . and sends the fearful report of this his achievement through the streets of the city, where it runs, in appalling whispers, among the multitude.'—

THOMAS CHALMERS.

Life of HENRY, Prince of Wales, son of JAMES I, and virtual Founder of the 'Royal Library.'—Its Augmentors and its Librarians. — Acquisition of the Library of the THEYERS.—Incorporation with the Collections of COTTON and of SLOANE.

HENRY, Prince of Scotland, and afterwards of Wales, was born at Stirling Castle on the 19th of February, 1594. King JAMES had married ANNE of Denmark more than four years before the Prince's birth, but a certain grotesqueness which had marked some of the characteristic circumstances of the marriage in Norway (in 1589) was not without its counterpart among the incidents that came to be attendant on the subsequent event at home. One

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WALES.

of these incidents is thus narrated in the quaint narrative of a Scottish courtier who made it his business to chronicle the movements of the Court with newsmanlike fidelity:—
‘Because the chappell royal was ruinous and too little, the King concluded that the old chappell should be utterly rased, and a new [one] erected in the same place that should be more large, long, and glorious, to entertain the great number of strangers’ who were expected to be present at the baptism. The interval demanded for the restoration of this decayed chapel at Stirling entailed an unusual delay between the child’s birth and his baptism, but it gratified the King by enabling him to send invitations far and wide. Had all of them met with acceptance they would have resulted in the presence of a cloud of witnesses, such as had rarely been seen in Scotland upon any the most famous occasion of courtly rejoicing.

PRINCE
HENRY’S
BAPTISM AT
STIRLING.

For the presence of two guests in particular JAMES was anxious. He wished to see an ambassador extraordinary from the Court of ELIZABETH, and another from that of HENRY THE FOURTH. HENRY would not gratify his wish, and the omission was much resented. ELIZABETH, on the other hand, was ostentatiously swift to comply, but her willingness was well nigh defeated by one of the common accidents of life. She had fixed her choice on the brilliant Earl of CUMBERLAND, whose love of magnificence was scarcely less prominent than was his love of adventure. He could grace a royal festivity, as conspicuously as he could lead a band of eager soldiers, or a crew of daring navigators. Just as the Earl’s costly preparations for his embassy were completed, he fell sick. Some days were lost in the hope of his speedy recovery, but the Queen was soon obliged to nominate the Earl of SUSSEX in his stead. SUSSEX had then to make preparations in turn. The day

fixed for the ceremony in Scotland had to be more than twice postponed, in order to ensure his presence. In all, more than six months elapsed before the babe was really baptized. We will hope that the Court Chronicler exaggerates a little when he tells us that 'the time intervening was spent in magnificent banquetting and revelling.' If so, the potations at Stirling must have vied with those of Elsinore.

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HENRY,
PRINCE OF
WALES.

*True Re-
portaris of
the baptisme
of the Prince
of Scotland,
MS. ADDIT.,
5795 (B. M.).*

When the long-expected day arrived (30 August, 1594) the child lay 'on a bed of estate richly decored . . with the story of HERCULES.' The old Countess of MAR lifted him into the arms of LENNOX, and by him the babe was transferred to those of the English ambassador who held him during baptism. Then Patrick GALLOWAY, we are told, learnedly entreated upon a text from the 21st chapter of Genesis.

The Bishop of ABERDEEN taught, in his turn, upon the Sacrament of Baptism—first in the vulgar tongue and then in Latin—and his discourse was followed by the twenty-first Psalm, 'sung to the great delectation of the noble auditory,' and also by a panegyric upon the Prince, delivered in Latin verse, from the pulpit. Then came a banquet, at which 'six gallant dames' had the cruel task assigned them of performing 'a silent comedy.' To the banquet succeeded a 'desart of sugar,' drawn in upon a triumphal chariot. The original programme had provided that this richly-laden chariot should be drawn by a lion, for whose due tameness the projector had pledged himself. But to King JAMES a lion, like a sword, was at all times an unpleasant object. He said that it would affright the ladies, and that 'a black-moore' would be a more safe propeller. Banquet and dessert together lasted from eight o'clock in the evening until three of the following morning.

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HENRY,
PRINCE OF
WALES.

id., pp. 6—
; verso.

At intervals, the cannon of Stirling Castle roared, until, says our chronicler, 'the earth trembled therewith.'

Thus was ushered in a brief but remarkable life. It lasted less than nineteen years. Then to the cradle which had been so richly emblazoned with the labours of HERCULES, in all the colours of embroidery, there succeeded the hearse of black velvet thickly set with its plumes of sombre feathers. One half, however, of those nineteen years that stood between cradle and hearse were years passed upon an arena to which the course of events had given almost world-wide importance and conspicuousness. The Prince's career was, by the necessity of his position still more than by reason of his youth, a career of promise, not of performance. But every year which passed after the removal from Scotland seems to have intensified the promise in the eyes of those who watched it, as well as to have deepened a conviction in the minds of nearly all thoughtful bystanders that to a grand ambition there were about to be proffered, in God's due time, means and appliances more than usually large, and a grand field of action. So it seemed to human expectation. And because, in those long-past years, it reasonably seemed so, there is still somewhat of a real human interest attaching to incidents which, otherwise, would be trivial and barren.

EARLY DIS-
TINCTIONS AT
BURT.

One unhappy circumstance which occurred before HENRY was eighteen months old testified to the existence, even at that date, of unhappy domestic relations of the kind which on many subsequent occasions brought bitterness into his daily life. Queen ANNE was deprived of the care of her child very soon after his baptism. The Earl of MAR was appointed to be his governor, and the Earl's mother assumed that place in the upbringing of the royal infant which, in

most cases, custom no less than nature would have assigned to the Queen herself. Her natural resentment brought about more than one angry discussion at Court. After one of those scenes of turbulence, JAMES gave to MAR, in writing, this characteristic command: 'Because in the surety of my son consisteth my surety, I have concredited unto you the charge of his keeping. . . . This I command you out of my own mouth, *being in the company of those I like*. Otherwise, for [*i.e.* notwithstanding] any charge or necessity that can come from me, you shall not deliver him.'

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WALES.

In 1599, Adam NEWTON became Prince HENRY's tutor; and the choice seems to have been a happy one. The boy had a most towardsly inclination to learn. The tutor had both a genuine love of letters and a real delight in teaching. He had also the wisdom which shuns extremes. Under NEWTON's care the child remained, in spite of an obliging offer from Pope CLEMENT THE EIGHTH to have him educated at Rome under the papal eye.

At the death of ELIZABETH, and after receiving the news of his own proclamation as her successor, the delighted father wrote to his son—then just entering on his tenth year—a letter which depicts its writer in a way as life-like as does the warrant addressed to MAR. I quote it, literally, from the hurriedly-written original, as it now lies before me: 'My Sonne, That I see you not before my pairting, impute it to this greate occasion, quhairin tyme is so precious. But *that* I* shall, by Goddes grace, shortlie

JAMES'
LETTER TO
PRINCE
HENRY ON
THE ACCE-
SSION TO THE
ENGLISH
CROWN.

* The word 'hope,' or some like expression, seems here to have been intended, but omitted. The repetition of the word 'shortlie' will sufficiently indicate to the reader the haste with which this effusion was written,—just as the King was about to mount for the long looked-for journey southwards. The letter has been printed by Birch, but with amendments.

OK I,
 SP. III.
 PE OF
 HENRY,
 INCE OF
 ILES.

be recompenced by your cumming to me shortlie, and continuall residence with me ever after. Lett not this news make you proude or insolent. For a Kings sonne and heire was ye before, and na maire are ye yett. The augmentation that is heirby lyke to fall unto you is but in caires and heavie burthens. Be therefore merrie, but not insolent. Keepe a greatness, but *sine fastu*. Be resolute, but not willfull. Keepe your kyndness, but in honorable sorte. Choose none to be your play fellowis but thaim that are well-borne. And above all things, give never good countenance to any but according as ye shall be informed that thay are in estimation with me. Looke upon all Englishmen that shall cum to visit you as among youre loving subjects; not with that ceremonie as towardis straingers, and yett with such hartines as at this tyme they deserve.' And so forth. For, notwithstanding the King's haste to set out on his journey, his pen ran on. But all his advice is in one strain. The variations are for ornament. In me, he says (only not so briefly), you see a model king. Mould yourself after that pattern, and you will be a model prince. 'I send you my booke,' he adds—referring to *Βασιλικον δωρον*—. . . 'ye must level everie mannis opinions or advices unto you, as ye finde thaim agree or discorde with the rules thaire sett down.' Near as they commonly were in person, in the after years, JAMES still found occasion to write to HENRY a good many letters. This one theme runs through them all. But no amount of hortatory discourse could hinder the new metal from overrunning the worn and antiquated mould.

INCE
 HENRY IN
 GLAND.

Prince HENRY came into England in the June of 1603. He was invested with the Garter on the 2nd of July at Windsor. Sir Thomas CHALONER (son of ELIZABETH's well-known ambassador to the Emperor) succeeded MAR in

the office of Governor. He was a man of many accomplishments, and had a strong bias for some of the physical sciences. But it does not seem that he possessed that force of character which in the elder Sir Thomas CHALONER was a conspicuous quality.

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WALES.

From a very early age, HENRY showed that in him were combined in happy proportions a strong relish for the pleasures of literature with a relish not less keen for the pursuits and employments of an active and out-of-doors life. He could enjoy books thoroughly, without being absorbed by them. He had a manly delight in field sports, without falling under the temptation to become a slave to his pastime. If in anything his enjoyments tended to excess, as he grew towards maturity, it was seen in his devotion to warlike exercises. So that even the excess testified to that real manliness of spirit which keeps the body in subjection, instead of pampering its pleasures and its aptitudes. He seems to have learnt, unusually early in life, that the natural instincts of youth will have their truest gratification, and will retain their fullest zest, when made, by deliberate choice, steps towards a conscious fitness for the duties of manhood. Alike in what we have from his own pen, and in the testimonies of those who were the closest observers of his brief career, we see evidence that he had formed a due estimate of the responsibilities that, to human view, lay close before him. Of his thoughts about kingship we possess only fragments. Of his father's thoughts on that subject we enjoy an exhaustive exposition. The contrast in the thinking is curiously significant.

Some of the best known anecdotes of HENRY's life exhibit the interest he felt in naval matters. That tendency may, perhaps, have taken its birth in a London

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ORIGIN OF
HENRY'S
INTEREST IN
NAVAL AF-
FAIRS.

Life of Pett,
MS. HARL.,
vol. 6279
(B. M.).
(Cited by
Birch, p. 39.)

HENRY AND
RALEGH.

incident of March, 1604. The Earl of NOTTINGHAM, Lord High Admiral, was then in the flush of Court favour. The Prince had been but for a few months in England, and his sight-seeing had not, as yet, included the baptism * of a ship. The Admiral prepared that novelty to please him. It was at the Tower that the Prince first examined the '*Disdain*' (15 March, 1604). Whether at the same time he made his first acquaintance with the most famous inhabitant of the Tower is matter of mere conjecture. RALEGH, at all events, was there† on the day when Phineas PETT moored his new vessel off Tower Wharf, for the Prince's delight. Before any long time had passed, RALEGH was busy in the composition of a *Discourse of a maritimal voyage, and of the passages and incidents therein*, with a like object. The acquaintance, however began, was improved with every passing year. Of the many hopes which came to a sudden end eight years afterwards, few, it is probable, were more sanguine or more far-reaching than those of the King's keenly watched and dreaded prisoner. For England, RALEGH saw in Prince HENRY a wise and brave king to come. For himself, he saw not only a generous friend, but a man who might be the means of giving shape and substance to many patriotic schemes with which a brain that could not be imprisoned had long been teeming.

There is evidence that on more than one topic of public policy RALEGH's counsel made a deep impression on HENRY. One instance of it will be seen presently. But apart altogether from such positive results as admit of

* It was not strictly a 'launch.' The vessel had been built expressly for the Prince, at Chatham, and was brought thence to London to be named with the usual ceremonies.

† He was removed to the Fleet Prison ten days afterwards.

testimony, their intercourse is memorable. It must have been by virtue of some congeniality of nature that a youth in HENRY'S position so quickly leapt—across many obstacles—to an appreciation, alike of the circumstances and of the character of RALEGH, which still commends itself to those who have looked into them most searchingly. The estimate has been many times confirmed by the investigations of history, long afterwards, but it was strongly opposed to the broad current of contemporary opinion. A heart larger than the average may have its divinations, as well as the intellect that is more acute and better furnished than the average.

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WALES.

But the generous heart is often allied with a hasty temper. The impression made on the Prince by RALEGH'S writings on naval matters had, amongst other results, that of increasing both his interest in the management of the royal dockyards, and his familiar intercourse with Phineas PETT. PETT was master shipwright at Chatham, and, as we have seen, the designer of the prince's first vessel *Disdain*. When Sir Robert COTTON had induced the King to issue that Commission of Inquiry into the Navy, of the results of which some account has been given in the preceding Chapter, PETT was one of the persons whose official doings were brought into question. HENRY took a warm interest in the inquiry and testified openly his anxiety on PETT'S behalf. A specific charge about an alleged disproportion between timber paid for and the vessels built therewith was investigated at Woolwich. Both the King and the Prince were present. HENRY stood by PETT'S side. When the evidence was seen to disprove the charge, the Prince cried with a loud voice—disregarding alike the royal presence and the forms of law—'Where be now those perjured fellows that dare thus

THE INVESTIGATION
INTO THE
NAVAL
DOCKYARDS.

1608.
April.
See Chap. ii,
pp. 62, 63.

MS. Life of
Phineas Pett,
in MS. HARL.
6279 (B.M.)
p. 45.

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WALES.

HENRY'S
FOREIGN
CORRESPONDENCE.

abuse His Majesty with false informations? Do they not worthily deserve hanging?'

The warmth of HENRY's friendship seems to have suffered little diminution by the absence of its objects. When his friends went to far-off countries he encouraged them to be active correspondents by setting them a good example. He welcomed all sorts of real and worthy information. About the government and affairs of foreign countries his curiosity was insatiable. When important letters came to him he not only read them with care but made abstracts of their contents. When the labour-loving Lord Treasurer SALISBURY noticed, with regret, in his son CRANBORNE certain indications of a turn towards indolence, it was by an appeal to Prince HENRY's example that he strove to correct the failing. HENRY evinced eagerness to learn by all methods. Books, letters, conversation, personal insight into notable things and new inventions,—were alike acceptable to him.

HIS PURCHASE OF
LORD
LUMLEY'S
LIBRARY.

In April, 1609, the death of John, Lord LUMLEY, without issue, enabled the Prince to gratify his love of books by purchasing a Library which probably was more valuable than any other collection then existing in England, with the exception of that of Sir Robert Cotton.

Thirty years before, Lord LUMLEY had inherited the fine library of his father-in-law, Henry FITZALAN, Earl of ARUNDEL, who had been a collector of choice manuscripts at a time when the reckless dispersion of monastic treasures impoverished the nation, but gave, here and there, golden opportunities to openhanded private men. When the estates of the FITZALANS came to LUMLEY—in virtue of an entail made by the Earl of ARUNDEL during Lady LUMLEY's lifetime—the splendid succession had lost its best charm. The wife who had thus enriched him was

dead, and he was childless. His wife's sister, the Duchess of NORFOLK, was also dead, but had left a son. LUMLEY sold his life interest in the broad lands, and forests, and in the famous castle of Arundel, to the next heir, but he kept the library and found one of the chief pleasures of his remaining term of life in liberally augmenting it. HENRY's first care, after his purchase, was to have a careful catalogue made of the collection. And he soon gave evidence that he had bought the books for use; not for show. He also made many important additions, from time to time, during his three years' ownership.

Perhaps the most festive days of that brief span were the sixth of January, 1610, and the sixth of June of the same year, on both of which Whitehall again witnessed a gay tournament. On twelfth-day, at the head of a band of knights which included LENNOX, ARUNDEL, SOUTHAMPTON, HAY, Sir Thomas SOMERSET, and Sir Richard PRESTON, HENRY kept his barriers against fifty-six assailants, and before a brilliant court, for whose pleasure the long mimic fight was diversified by the gay devices of Inigo JONES, and the graceful verses of Ben JONSON. Next day the jousting was followed by a banquet not less splendid. At Whitehall,—as at Stirling sixteen years before,—the banquetting lasted seven hours, but it was enlivened by a comedy in which the ladies were not condemned to silence. In the following June, HENRY's creation as Prince of WALES was celebrated by tiltings on a more extensive scale, as well as by masques and dances, and by an elaborate naval battle upon the Thames. But the prince himself seems to have taken more pleasure in witnessing from time to time, at Woolwich or at Chatham, the launching of real ships fitted for real warfare. Nor are indications wanting that during his ponderings on the many advices which he

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WALES.

Muniments
at Norf.
House
(Sussex,
Box 7), as
cited in
Tierney's
Arundel,
p. 19.

*Privy Purse
Book*; in
*Domestic
Correspondence*, JAMES
I, vol. lvii,
§ 87, p. 4.
(R. H.)

THE TOUR-
NAMENTS OF
1610.

*Chronicle of
England*,
p. 898.
*The Speeches
at Prince
Henrics Bar-
riers*; and
*Oberon, a
Masque*.
(Jonson's
Works, vol. v,
pp. 965—974,
1st edit.)

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 WALES.

received of the course of public events in Europe, he had occasional presentiments that a crisis was drawing near which would make the adoption of a warlike policy to be alike the duty of the King, and the recognized interest of the nation.

THE PRO-
 POSALS FOR
 A DOUBLE MAR-
 RIAGE.

1611-1612.

Be that as it may, the broad contrasts of character which existed between the wearer of the crown and its heir apparent became increasingly obvious during the long negotiations and correspondence about the projects of marriage for the prince himself and for his sister. Something, indeed, of the difference in character between JAMES and HENRY was indicated when, in 1611, the prince directed RALEGH to draw up, in his prison, a paper of advice on the scheme of a double marriage with Savoy and on the relations between Savoy and Spain. It came out more forcibly when, on occasion of the proposal from France for his own marriage with CHRISTINA (the elder sister of HENRIETTA MARIA), he wrote to his father in these words: 'The cause which first induced your Majesty to proceed in this proposition by your Ambassador was the hope which the Duke of BOUILLON gave your Majesty of breaking their other match with Spain. If the continuance of this treaty hold only upon that hope, and not upon any desire to effect a match with the second daughter, in my weak opinion I hold that it stands more with your Majesty's honour to stay your Ambassador from moving it any more than to go on with it. Because no great negotiation should be grounded upon a ground that is very unsure and uncertain, and depends upon their wills who were the first causers of the contrary.' For this letter the Prince was rebuked. Two months afterwards, it was found indispensable to desire him to express again his opinion upon a new stage of the negotiation. He did so in words to which the events of

the next few years were destined to give significance. I quote from the original letter, preserved (with a large mass of other letters from the same hand) amongst the Harleian MSS.*

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WALES.

'As for the exercise of the princess' religion,' wrote HENRY, on the 5th of October, 1612, 'your Majesty may be pleased to make your Ambassador give a peremptory answer that you will never agree to give her greater liberty in the exercise of it than that which is agreed with the Savoyeard, which is—to use his own word—*privately*; or, as Sir Henry WOTTON did expound it, "in her most private and secret chamber."' Then he touches on the delicate question of dowry, and the relative preferability of the alliance proffered by France and that proffered by Savoy; adding,—with an obvious mental reference, I think, to the advice given him by RALEGH in the preceding year,—these pregnant words: 'If your Majesty will respect rather which of these two will give the greatest contentment to the general body of the Protestants abroad, then I am of opinion that you will sooner incline to France than to Savoy.'

The writer then hints a fear that he may, unwittingly, have incurred a renewal of the paternal displeasure which some expressions of opinion in his former letter on the same subject had excited. Let his father kindly remember, he entreats, that his own special part in the business,—'which is to be in love with any of them, is not yet at hand.'

1612.
Oct. 5.
Henry to
James;
MS. HARL.,
6966, f. 110.

Death, not love-making, was at hand. One month after-

* In dealing with royal letters it is, of course, necessary to keep in mind how largely the vicarious element is apt to enter into their composition. Those, however, that are quoted in the text seem to have a plain stamp of individuality upon them.

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CHAPTER
 12.
 NOVEMBER.

wards, the arm that penned this letter was stretched out,—still and rigid.

The Prince was seized with sudden illness on the 10th of October, five days after its date. The first appearances were such as are wont to follow upon a great chill, after excessive exercise—to which HENRY was always prone. In spite of much pain and some alarming symptoms, he persisted in removing from Richmond to St. James' on the 16th, in order to receive the Elector Palatine, soon to become the husband of his sister. Within very few days it was apparent that his illness was of the most serious nature. He left his apartment at St. James' on the morning of the 25th, to hear a sermon at the Chapel Royal. The text was from the fourteenth of Job, '*Man, that is born of a woman, is of short continuance.*' Afterwards he dined with the King, but was obliged to take his leave, being seized with faintness and shivering fits. These continued to recur, at brief intervals, until his death, on the evening of the sixth of November. Almost the only snatch of quiet sleep which he could obtain followed upon the administration of a cordial, prepared for him in the Tower by RALEGH, at the Queen's earnest request. It was not given until the morning of the last day.

HENRY died calmly, but under total exhaustion. For many hours before his death he was unconscious, as well as speechless. The last words to which he responded were those of Archbishop ABBOT:—'In sign of your faith and hope in the blessed Resurrection, give us, for our comfort, a sign by the lifting up of your hands.' HENRY raised both hands, clasped together. It was his last conscious act.

Here, to human ken, was a life all seed-time. The

harvest belonged to the things unseen. Contemporaries who had treasured up, in memory, many of those small matters which serve to mark character, were wont sometimes to draw contrasts between the prince and his brother. And many have been the speculations—natural though unfruitful—as to the altered course of English history, had HENRY lived to ascend the throne. One fact, observable in the correspondence and documentary history of the times, will always retain a certain interest. Some of those who were to rank among the staunchest opponents of CHARLES were men who thought highly of HENRY's abilities to rule, and who held his memory in affectionate reverence.

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HENRY had died intestate. The library which he had purchased from the Executors of Lord LUMLEY fell to the disposal of the King. The greater part of it went to augment the remains of the old royal library of England, portions of which had been scattered during JAMES' reign, as well as before it. By that disposal of a collection, in which the prince had taken not a little delight during his brief possession, he became virtually, and in the event, a co-founder of the British Museum.

DISPOSAL
OF THE
PRINCE'S
LIBRARY.

The library remained at St. James' under the charge, for a time, of the prince's librarian, Edward WRIGHT. The relics of the royal collection at Whitehall were then in the keeping of the eminent scholar and theologian, Patrick YOUNG. Eventually they too were brought to St. James', and YOUNG took the entire charge. It was by his exertions that the combined collection was augmented by a valuable part of the library of Isaac CASAUBON. It was to his hands that Sir Thomas ROE delivered the 'Alexandrian Manuscript' of the Greek Bible, the precious gift to King CHARLES of Cyril LUCAR, Patriarch of Constantinople.

UNION OF
THE ST.
JAMES' AND
WHITEHALL
LIBRARIES.

Roe, *Negotiations*,
pp. 335; 618.

YOUNG survived until 1652, but he was deprived of his

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WALES,

office in 1648. In that turbulent time the library narrowly escaped two perils. Some of the soldiers of the triumphant party sought to disperse it, piecemeal, for their individual profit. Some of the leaders of that party formed a scheme to export it to the Continent for a like purpose. It stands to the credit of a somewhat fanatical partisan—Hugh PETERS, one of the many men who are doomed to play in history the part of scapegoats, whatever their own sins may have really been—that his hasty assumption of librarianship (1648) saved the library from the first danger. A like act on the part of Bulstrode WHITELOCKE, in the following year (July, 1649), saved it from the second. Probably, it was at his instance that the Council of State made or designed to make it a Public Library. Four years afterwards, WHITELOCKE held at Stockholm a curious conversation with Queen Christina about its manuscript treasures, of some of which, he tells us, she was anxious to possess transcripts.

Comp. Order-
Book of
Council of
State, vol. v,
p. 454, and
vol. xxiv,
p. 604. (R.H.)

WHITE-
LOCKE'S
Embassy to
Sweden, vol. i,
p. 273.
(Reeve's
edit.)

ACQUISITION
OF THE
THEYER
LIBRARY.

Under the Commonwealth, the librarianship had been combined, first with the keepership of the Great Seal, and then with an Embassy to Sweden. Under the Restoration, it was held in plurality with an active commission in the Royal Navy. CHARLES II, however, caused some valuable additions to be made to the library. Of these the most important was the manuscript collection which had belonged, successively, to John and Charles THEYER. The sum given was £560. The collection came to St. James' Palace in 1678. It was rich in historical manuscripts and in the curiosities of mediæval science. It embraced many of the treasured book-possession of a long line of Abbots and Priors of Llanthony,* and the common-place-books of Archbishop CRANMER.

* That Llanthony, in Monmouthshire, the purchase of which in the

At CHARLES THE SECOND's death the number of works in the royal collection had increased to more than ten thousand. No doubt, in that reign, the books could have brought against their owner the pithy complaint to which PETRARCH gave expression, on behalf of some of their fellows, at an earlier day: 'Thou hast many books tied in chains which, if they could break away and speak, would bring *thee* to the judgment of a private prison. . . . They would weep to think that one man—ostentatious of a possession for which he hath no use—should own a host of those precious things that many a passionate student doth wholly lack.'

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Petrarch,
*De remediis
utriusque
fortuna.*

No true lover of books, for their own sake, indeed, was ever to possess that rich collection, until it passed into the ownership of the nation. Its entail, so to speak, as a heirloom of the Crown, was cut off, just as it was about to pass into the hands of the one English King who alone, of all the Monarchs since CHARLES THE FIRST, cared about books. That it should pass to the Nation had been proposed by Richard BENTLEY, when himself royal librarian, sixty years before the proposal became a fact. 'Tis easy to foresee,' said BENTLEY, 'how much the glory of our Nation will be advanced by erecting a Free Library of all sorts of books.' In his day, he saw no way to such an establishment, otherwise than by transfer of the royal collection.

There is a reasonable, perhaps it might be said a strong, present century gave rise to so singular a chapter in the history of Llandor, and whose charms, in retrospect, prompted the lines—

'Llanthony! an ungenial clime,
And the broad wing of restless Time,
Have rudely swept thy massy walls,
And rockt thy Abbots in their palls.
I loved thee, by thy streams of yore;
By distant streams, I love thee more.'

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WALES.

probability that when BENTLEY gave expression to this wish, at the close of the seventeenth century, he was unconsciously reviving one among many projects for the public good which had been temporarily buried in the grave of Prince HENRY. For under the Commonwealth, the Library at St. James' had been 'Public' rather in name than in fact.

THE ULTIMATE INCORPORATION OF THE ROYAL LIBRARY WITH THE COLLECTIONS OF SLOANE AND OF COTTON.

When the time came, the number of volumes of the Royal Collection which remained to be incorporated with the Museum of SLOANE and with the Library of Sir Robert COTTON was somewhat more than twelve thousand. The number of separate works—printed and manuscript together—probably exceeded fifteen thousand.

Amongst the acquisitions so gained by the nation the first place of honour belongs to the *Codex Alexandrinus*. It stands, by the common consent of biblical palæographers, in a class of manuscripts of the Holy Scriptures into which only two or three other codices in the world can claim to be admitted. Of early English chronicles there is a long series which to their intrinsic interest as primary materials of our history add the ancillary interest of having been transcribed—sometimes of having been composed—expressly for presentation to the reigning Monarch. Here also, among a host of other literary curiosities, is the group of romances which John TALBOT, Earl of Shrewsbury, caused to be compiled for MARGARET of Anjou; and the autograph *Basilicon*, written for Prince HENRY. Among the innumerable printed treasures are choice books which accrued as presentation copies to the sovereigns of the House of TUDOR, beginning with a superb series of illuminated books on vellum, from the press of Anthony VERARD of Paris, given to HENRY THE SEVENTH. For large as had been the losses sustained by the original

royal library, and truly as it may be said that Prince HENRY's acquisitions amounted virtually to its re-foundation, many of the finest books of long anterior date had survived their varied perils. And some others have rejoined, from time to time, their old companions, after long absence.

The royal collection has also an adventitious interest—in addition to the main one—from another point of view. It includes results of the strong-handed confiscations of our kings, as well as of the purchases they made, and the gifts they received. Both the royal manuscripts and the royal printed books contain many memorials of careers in which our poets no less than our historians have found, and are likely to find, an undying charm.

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LIFE OF
HENRY,
PRINCE OF
WALES.

CHAPTER IV.

THE COLLECTOR OF THE ARUNDELIAN MSS.

'The English nobles are high-spirited, active, educated men, born to wealth and power, who have run through every country and have kept, in every country, the best company; have seen every secret of art and nature; and—when men of any ability or ambition—have been consulted in the conduct of every important action. You cannot wield great agencies without lending yourself to them. When it happens that the spirit of the Earl meets his rank and his duties, we have the best examples.

..... These are the men who make England that strong-box and Museum it is; who gather and protect works of art, dragged from amidst burning cities and revolutionary countries, and brought hither, out of all the world. When I saw that, besides deer and pheasants, these men have preserved ARUNDEL MARBLES, TOWNLEY GALLERIES, HOWARD and SPENCER LIBRARIES, WARWICK AND PORTLAND VASES, SAXON MANUSCRIPTS, MONASTIC ARCHITECTURES, AND MILLENNIAL TREES, I pardoned their high park-fences.'—

R. W. EMERSON, (*English Traits*, § xi).

Political Exile and Foreign Travel under Elizabeth, and under James.—Life of Thomas HOWARD, Earl of Arundel.—The Consolations of Connoisseurship.—Vicissitudes of the Arundel Museum.—The gifts of Henry HOWARD to the Royal Society.

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LECTOR OF
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DELIAN MSS.

chap. iii,
p. 162.

THE Collector of the Arundel Marbles and Founder of the Arundel Library was the great-grandson of that twenty-first Earl of ARUNDEL (Henry FITZALAN) by whom had been collected the choicest portion of the library which passed, in 1609, from the possession of John, Lord LUMLEY, to that of HENRY, Prince of Wales.

That Earl had profited by the opportunities which the dissolution of the monasteries presented so abundantly to collectors at home. The new Earl profited, in his turn, by larger and far more varied opportunities, offered to him during a long course of travel abroad. For himself, his travels ripened and expanded a somewhat crude and irregular education. He attained, at length, and in a much greater degree (as it seems) than any of his contemporaries, to that liberal culture which enabled him to appreciate, and to teach his countrymen to appreciate, the arts from which Greece and Italy had derived so much of their glory; whilst in England those arts had, as yet, done very little either to enhance the enjoyments and consolations of human life, or to call into action powers and aptitudes which had long lain dormant. It is not claiming too much for the Earl of ARUNDEL to say that of whatever, upon a fair estimate, England may be thought to owe to its successful cultivation of the Arts of Design, he was the first conspicuous promoter. Nor is his rank as a pioneer in the encouragement of the systematic study of archæology—a study so fruitful of far-reaching result—less eminent.

He may also be regarded as setting, by the course he took with his own children, the fashion of foreign travel, as a necessary complement of the education of men of rank and social position. The example became very influential, and in a sphere far broader than the artistic one. Under ELIZABETH, the Englishmen best known on the Continent had been political exiles. Most of them were men self-banished. Many of them passed their lives in defaming and plotting against the country they had left. The jealous restrictions upon the liberty of travel imposed by the Government rarely kept at home the men of mischief, but were probably much more successful in confining men

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FOREIGN
TRAVEL,
UNDER
TUDORS AND
STUARTS.

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LECTOR OF
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DEL MSS.

whose free movements would have been fruitful in good alike to the countries they visited and to their own. The altered circumstances which ensued upon the accession of JAMES notoriously gave facilities to wider Continental intercourse; and it was by men who followed very much in Lord ARUNDEL's track that some of the best social results of that intercourse were won.

Thomas,
Earl of Norfolk
his son
Philip, &c.,
18. Harl.,
87.

Thomas HOWARD, Earl of Arundel, Surrey, and Norfolk, was twentieth in lineal descent from that William de ALBINI who, in the year 1139, had acquired the Castle and Earldom of Arundel by virtue of his marriage with the widow of King HENRY THE FIRST. He was born at Finchamfield, in Essex, in 1585,—a date which nearly marks the period of lowest depression in the strangely varied fortunes of an illustrious family. Philip, Earl of ARUNDEL, the father of Earl Thomas, was already in the Tower, and was experiencing, in great bitterness, the truth of words written to him by his own father, when in like circumstances:—‘Look into all Chronicles, and you shall find that, in the end, high degree brings heaps of cares, toils in the State, and most commonly (in the end) utter overthrow.’ Before Thomas HOWARD had reached his fifth year his mother—co-heiress of the ‘DACRES of the North’—had to write to the Lord Treasury BURGHLEY: ‘Extremitye inforceth me to crave succour,’ and to illustrate her assertion by a detail of miseries.

The hopes with which the STUART accession was naturally anticipated by all the HOWARDS, were by some of them more than realized, but the heir of Arundel was not of that number. He was, indeed, restored in blood to such honours as his father, Earl Philip, had enjoyed, and also to the baronies forfeited by his grandfather, Thomas,

Duke of NORFOLK, in 1572. But the dignities were restored without the lands. His nearest relations profited by their influence at Court to obtain grants of his chief ancestral estates. The Earls of NOTTINGHAM, NORTHAMPTON,* and SUFFOLK had each of them a share in the spoil;—salving their consciences, probably, by the reflection that, despite his poverty, their young kinsman had made a great marriage. For his alliance, in 1606, with Lady Aletheia TALBOT, daughter and co-heir of Gilbert, Earl of SHREWSBURY, had already brought to him considerable means in hand, and a vast estate in prospect. The marriage, in higher respects, was also a happy one. But a natural and eager desire to recover what his father had forfeited cast much anxiety over years otherwise felicitous. He could not regain even Arundel House in London, until he had paid £4000 for it to the Earl of NOTTINGHAM.

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Lord ARUNDEL made his first appearance at Court in 1605. In May, 1611, he was created a Knight of the Garter. Thirteen years of JAMES' reign had passed before the Earl was admitted to the Privy Council. This honour was conferred upon him in July, 1616. Five years more were to pass before his restoration to his hereditary office

ARUNDEL
AT COURT.

* Part of Lord Northampton's large estates came eventually to Lord Arundel by bequest. He also inherited Northampton's house at Greenwich, and occasionally resided there, until its destruction by fire in January, 1616. Chamberlain's account of the incident, given to Sir Dudley Carleton, is worth quotation for the comment with which it ends: 'There fell a great mischance to the Earl of Arundel by the burning of his house . . . at Greenwich, where he lost a great deal of household stuff and rich furniture; the fury of the fire being such that nothing could be saved. No doubt the Papists will ascribe and publish it as a punishment for his deserting or falling from them.' Ten days before the fire, Arundel had testified, publicly, his conformity with the Church of England. But he had shewn long before that his religious views and convictions differed widely from those in which he had been brought up.

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DELIAN MSS.

*Domestic
Corresp.,
James I,
1621, 21 July.
(R. H.)*

*Minutes of
Correspond-
ence in Sec.
Conway's
Letter Book;
(R. H.) and
Council
Books (C. O.).*

of Earl Marshal of England, although he had been made one of six Commissioners for the discharge of its duties in October, 1616. The baton was at length (29th August, 1621) delivered to him at THEOBALDS. 'The King,' wrote John CHAMBERLAIN to Sir Dudley CARLETON, when communicating the news, 'would have given him £2000 a year pension withal, but—whatsoever the reason was—he would accept but the ordinary fee, which is twenty pounds per annum.' It is plain, however, that this assertion was an error. According to the ancient constitution of the Earl Marshal's office there were certain fees accruing from it which were now, under new regulations, to cease. The question arose, Shall the Earl Marshal be compensated by pension, or (according to a pernicious fashion of the age) by the grant, or lease, of a customs duty upon some largely vended commodity? The 'impost of currants' was eventually fixed upon. But the Earl had subsequent occasion to adduce evidence before a Committee of the Privy Council, that the rent paid to the King sometimes exceeded the aggregate duty collected from the merchants.*

There is some uncertainty as to the date of the earliest of Lord ARUNDEL's many visits to the Continent. According to Sir Edward WALKER, he was in Italy in 1609. But that statement is open to doubt. There is proof that in 1612 he passed some time in Florence and in Siena. With

* The question was complicated by opposition offered by the Lord Keeper Williams to the terms in which Lord Arundel's patent was originally drawn. The relations between Arundel and Buckingham were never cordial, and the Lord Keeper seems to have profited by that circumstance to make his opposition to the pension effectual. It is probable that he had good grounds for so much of his objection as related to certain powers proposed to be vested in the Earl Marshal's court. But on that point Arundel's views eventually prevailed—until the time of the Long Parliament. The Lord Keeper's letter is printed in *Cabala*, p. 285.

Siena, as a place of residence, he was especially delighted. Of the foundation of his collections—to which his Italian journeys largely contributed—there are no distinct records until the following year.

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The tour of 1613, followed immediately upon the marriage of the Princess ELIZABETH with FREDERICK, Count Palatine of the Rhine. The royal pair were escorted into Germany by both Lord and Lady ARUNDEL, who soon left the Rhine country on a new visit to Italy, and remained there until nearly the close of 1614. During that long residence the Earl established a wide intercourse with the most distinguished artists and archæologists of Italy, and made extensive purchases. The fame of his princely tastes was spread abroad. It soon became notorious that by this open-handed collector marbles, vases, coins, gems, manuscripts, pictures, were received with equal welcome. And from this time onwards many passages occur in his correspondence which indicate the keen and minute interest he took in the researches of the agents who, in various parts of the Continent, were busy on his behalf. The pursuit did not lack the special zest of home rivalry, as will be seen hereafter.

Arundel to
Rochester,
MS. Cott.
Titus, B. vii,
f. 463.

BEGINNINGS
OF THE
ARUNDELIAN
COLLEC-
TIONS.

Not the least singular incident in the early part of Lord ARUNDEL's life was his commitment to the Tower, at a moment when his favour with King JAMES was at its height.

In one of the many impassioned parliamentary debates which occurred during the session of 1621 an allusion was made by Lord SPENCER to the unhappy fate of two famous ancestors of the Earl of ARUNDEL, and it was made in a way which induced the Earl to utter an unwise and unjust retort. The matter immediately under discussion was a

1621, May.

THE
QUARREL
BETWEEN
LORDS
ARUNDEL
AND
SPENCER.

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 LECTOR OF
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 DELIAN MSS.

very small one, but it had grown out of the exciting question of monopolies, and it was mixed up with the yet more exciting question of the overweening powers entrusted by the King to BUCKINGHAM. In the course of an examination at the bar of the House of Lords about the grant of a patent for licensing inns, Sir Henry YELVERTON had made a furious attack upon the Duke. The attack was still more an insult to the House, than to the King's favourite, and it had been repeated. It was proposed, on a subsequent day, to call Yelverton to the bar for the third time, in order to see if he would then offer the apology which before he had refused. ARUNDEL opposed the motion. 'We have his words; we need hear no more,' he said. Lord SPENCER rose to answer: 'I remember that two of the Earl's ancestors—the Earl of SURREY, and the Duke of NORFOLK, were unjustly condemned to death, without being heard.' 'The implied parallel was a silly one, but its weakness and irrelevancy did not restrain ARUNDEL's anger. 'My Lords,' said he, 'I do acknowledge that my ancestors have suffered. It may be for doing the king and the country good service; and at such time, perhaps, as when the ancestors of the Lord that spake last kept sheep.' The speaker failed to see that by using such words he had committed exactly the same offence as that for which he had, but a moment before, censured the late Attorney-General, and had moved the House to punish him. On all sides, he was advised to apologise. He resisted all entreaty. When committed to the Tower, he still refused submission. Both the King and the Prince of Wales had to intercede for him with the House before he could regain his liberty.

With rare exception, the public incidents of Lord

Arundel's life during the remainder of the reign of JAMES are such as offer little interest, save as illustrations of character. In that respect, many of them testify to the failing which appears so strikingly in the story of the quarrel with Lord SPENCER. Some noble qualities lost part of their real lustre when pride was so plainly seen in their company. All that was best in Lord ARUNDEL revolted at the grossness of the Stuart court. He often increased his own disgust by contrasting what he saw at Whitehall with the memories of his youth. His office of Earl Marshal precluded him from very long absences. Sometimes, when forced to mingle with courtiers for whose society he had little liking, he rebuked their want of dignity by exaggerating his own dignity into haughtiness. Against failings of this kind we have to set many merits, and amongst them a merit eminently rare in that age. ARUNDEL was free from covetousness—save in that special sense in which covetousness, it may be feared, cleaves to all 'collectorship.'

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In 1622 some anxiety was occasioned to Lord ARUNDEL by a singular adventure which befell his wife during her residence in the Venetian territory, whither (in the course of a long Italian tour) she had gone to watch over the education of their sons; little anticipating, it may well be supposed, that her name and that of Lord ARUNDEL, would be made to figure in Venetian records in connection with the strange story of the conspirator Antonio FOSCARINI.

ADVEN-
TURE OF
LADY
ARUNDEL
AT VENICE.

After making some stay in Venice, Lady ARUNDEL had taken a villa on the Brenta, about ten miles from the City.

In April, 1622, she was on her way from this villa to the Mocenigo Palace, her residence in Venice, when she was met by the Secretary of Sir Henry WORTON, English ambassador to the Republic. The secretary said that he was sent by the ambassador to inform her that the Venetian Senate

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22, April.

had resolved to command her ladyship to leave their city and territory within a few days, on the ground of a discovery that FOSCARINI had carried on some of his traitorous intrigues with foreign ministers—and more especially with those of the Pope and Emperor—at her house. To this the messenger added, that it was Sir HENRY WOTTON's most earnest advice that Lady ARUNDEL should not return to Venice, but should remain at Dolo, until she heard from him again. Having listened to this strange communication in private, she desired the secretary to repeat it in the presence of some of the persons who attended her. Then she hastened to the ambassador's house at Venice. Her interview with WOTTON is thus, in substance, narrated by Lord ARUNDEL, when telling the story to his friend the Earl of CARLISLE, then ambassador to the Court of France.

'Lady ARUNDEL went immediately to my Lord Ambassador [WOTTON], telling him she came to hear from his own mouth what she had heard from his servant's.' When Sir Henry had repeated the statement of his secretary, the Lady asked him how long the accusation and the resolution of the Senate had been known to him. He replied that reports of the alleged intercourse with FOSCARINI had reached him some fifteen days before, or more; but that of the resolution of the Senate he had heard only on that morning. 'She asked him why he did never let her understand of the report all that time? He said because she spake not to him of it.' To Lady ARUNDEL's pithy rejoinder that it would have been hard for her to speak of a matter of which she had never heard the least rumour until that day, and to her further protestation that she had not even seen FOSCARINI since the time of his visit to England, some years earlier, Sir Henry replied, 'I believe there was no such matter;' but he refused to disclose the name

of the person who had first spoken to him of the accusation. To his renewed advice that her ladyship should not stir farther in the matter, she declined to accede. It concerned her honour, and her husband's honour, she said, to have public conference with the Doge and Council without delay. From carrying out this resolve the ambassador found it impossible to dissuade her.

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DELIAN MSS.
MS. Addit.,
4176, § 156.
(B. M.)

That conference took place on the following day with the remarkable result of a public declaration by the Doge that no mention had ever been made of Lady ARUNDEL's name, or of the name of any person nearly or remotely connected with her, either at any stage of the proceedings against FOSCARINI, or in any of the discussions which had arisen out of his conspiracy.

When the audience given to Lady ARUNDEL by the Doge had been made the subject of a communication to the Senate, that body instructed the Venetian Ambassador in England to confer with Lord ARUNDEL. 'You are,' said they, 'to speak to the Earl Marshal in such strong and earnest language that he may retain no doubt of the invalidity of the report, and may remain perfectly convinced of the esteem and cordial affection entertained towards him by the Republic; augmented as such feelings are by the open and dignified mode of life led here by the Countess, and in which she hastens the education of her sons in the sciences to make them—as they will become—faithful imitators of their meritorious father and their ancestors.'

*Deliberations
of the Senate
of Venice;*
printed by
Hardy, in
*Report on
Venetian
Archives,*
pp. 78-84
(1866).

Sir Henry WOTTON's motive in the strange part taken by him in this incident is nowhere disclosed. He had to listen to several indirect reproofs, both from the Doge and from the Senate, which were none the less incisive on account of the courtly language in which they were couched.

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DEATH OF
ARUNDEL'S
ELDEST SON.

*Royal license
to travel,
July, 1624.*

*Domestic
Corresp.*
James I,
vol. cxlix,
§ 87;
vol. clii, § 55.

THE STUART
MARRIAGE
AND ITS
RESULTS.

Two years afterwards, the Earl was himself hastily summoned to the Continent to attend the death-bed of his eldest son, James, Lord MALTRAVERS, who is described by a contemporary writer as a 'gentleman of rare wit and extraordinary expectation.' The Countess and her two elder sons, James and Henry, were then returning from Italy to England. They passed through Belgium in order to visit the Queen of BOHEMIA. Whilst at Ghent, upon the journey, Lord MALTRAVERS was seized with the smallpox. He died in that city in July, 1624. The affliction was acutely felt. 'My sorrow makes me incapable of this world's affairs,' wrote the Earl to one of his political correspondents, in the autumn of the year. To the outer world, reserved manners and a stately demeanour often gave a very false impression of the man himself. Throughout his life, ARUNDEL's affectionate nature was so evinced in his deeds, and in his domestic intercourse, as to stand in little need of illustration from his words. Mainly, as it seems, to this characteristic quality he was soon to owe a second imprisonment in the Tower of London.

The new Lord MALTRAVERS shortly after his return to England fell in love with the Lady Elizabeth STUART, daughter of Esme, Duke of LENNOX. ARUNDEL had formed other wishes and plans for the son who was now his heir, and there is evidence that he was reluctant to give his consent to the prosecution of the suit. Nor did the kinship of the prospective bride with King CHARLES appear to him, it seems, at all an inviting circumstance in the matter. So long as BUCKINGHAM stood at the helm of affairs ARUNDEL was likely to have a very small share in the new king's affections, so that pride and policy as well as inclination stood in the way of his approval. He knew also that it was CHARLES' eager wish that his kinswoman should marry

Lord LORNE, the eldest son of the Earl of ARGYLE. But the young lover was ardent, and his entreaties unintermitting. At length, we are told, he not only wrung from the Earl the words 'You may try your fortune with the lady that you seem to love so well,' but prevailed upon him to confer paternally on the subject with the lady's aunt and guardian, the Duchess of RICHMOND. MALTRAVERS, meanwhile, had resolved to incur no risk of defeat by waiting for a royal assent to his marriage. He had long before won his cause with the lady, but had kept the secret. Two passionate lovers* went gravely through the ceremony of a formal introduction to each other.

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MALTRAVERS then induced her to consent to a private marriage. When Lord ARUNDEL was informed of the fact he immediately disclosed his knowledge to the King, and besought pardon for the culprits. But CHARLES' wrath was unbounded. He placed the new-married pair under restraint in London. He committed ARUNDEL himself to the Tower. He commanded Lady ARUNDEL to remain at Horsley, in Surrey, a seat belonging to the Dowager Countess, her mother-in-law.

When Lord ARUNDEL was thus imprisoned Parliament was sitting. The Lords declared his arrest to be an infringement of their privileges. The King replied that 'the Earl of ARUNDEL is restrained for a misdemeanour which is personal to the King's Majesty, and has no relation to matters of Parliament.' The Lords still insisted that it was the Earl's unquestionable right 'to be admitted to come, sit, and serve in Parliament.' CHARLES released ARUNDEL from the Tower, and then confined him to

* 'In my deare lorde I long since placed my true affection and love. . . . Had I manie lives I would have adventured them all.' *Lady Maltravers to the Earl of Arundel*, 6 Feb., 1626 (MS. Harl., 1581, f. 390).

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*Secretary
Conway's
Letter Book,*
pp. 261 seqq.
(H. II.)

*Lords'
Journals,*
vol. III,
p. 668, &c.

*Domestic
Corresp.,
Charles I.,*
vol. XXXV,
p. 16 (H. II.).

Horsley. Royal evasion did but provoke increased earnestness and firmness from the Peers. At length they resolved that they would suspend public business until the Earl presented himself in his place. Nearly three months had been spent in debate and altercation before Secretary CONWAY was directed to write to ARUNDEL in these terms: 'It is the King's pleasure that you come to the Parliament, but not to the Court.'

The sequel of the story, as it tells itself in the State Papers, affords an early and eminent illustration of the qualities in CHARLES THE FIRST which, as they ripened, brought about his ruin. The King resolved that his concession should as far as was possible be retracted. Directly the sitting of Parliament was suspended, the King commanded CONWAY to apprise the Earl that his restraint to Horsley was renewed, 'as before the Earl's leave to come to Parliament.' ARUNDEL on his part made courtly and even lavish declarations of submission. 'I desire to implore the King's grace by the humblest and best ways I can.' This was written in September, 1626. Whenever it was indispensable that he should obtain leave to visit the capital a petition had to be prepared. In March, 1627, he writes: 'The King has limited my stay in London until the 12th of March. I will obey, but I beg you to represent to His Majesty that I have necessary business to transact . . . and that I have so carried myself as to shew my desire to give His Majesty no distastes. If now, after a year has passed, the King will dissolve this cloud, and leave me to my own liberty, I will hold myself to be most free when living in such place and manner as may be most to His Majesty's liking.' It was all in vain. Another whole year passed. ARUNDEL has still to write: 'I beseech the King to give life to my just desires, and after two

years of heavy disfavour to grant me the happiness to kiss his hands and to attend him in my place.' To this humble representation and entreaty it was replied by Secretary CONWAY: 'His Majesty's answer is that the Earl has not so far appeased the exceptions which the King has taken against unkindness conceived, as yet to take off his disfavour. As for the Earl's proffered duty and carriage in the King's service, the King will judge of that as he shall find occasion.'

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LECTOR OF
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Ibid.,
vol. lvi, p. 86
vol. xcvi, pp.
51, 85, &c.
Conway's
Letter Book,
pp. 295, &c.
(B. H.)

He found occasion ere long; but not until after BUCKINGHAM'S death. ARUNDEL rendered useful service, on some conspicuous occasions, both at home and abroad. If his successive diplomatic missions to Holland in 1632, and to Ratisbon in 1638, on the affairs of the Palatinate, failed of their main object, it was from no miscarriage of the ambassador. In the unostentatious labours of the Council Board he took during a long series of years a very honourable share. And it is much to his honour that by the men to whom the chief scandals of a disastrous reign are mainly ascribable, ARUNDEL was, almost uniformly, both disliked and feared.

As Lord High Steward of England, ARUNDEL had to preside at the trial of the Earl of STRAFFORD. He acquitted himself of an arduous task with eminent ability, and with an impartiality which won respect, alike from the managers of the impeachment and from the friends of the doomed statesman. The only person who expressed dissatisfaction with ARUNDEL'S conduct on that critical occasion was the King. The historians who have most deeply and acutely scanned the details of that most memorable of all our State Trials are agreed that in order to have satisfied CHARLES, the Earl of ARUNDEL must have betrayed the duty of his high office.

ARUNDEL
AND
STRAFFORD.
1641.
March and
April.

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LATEST
EMPLOY-
MENTS.

Rushworth,
vol. iv,
pp. 317, 318.

1642.
February.

Sir F. Walker,
in MS. Harl.,
as before.

Shortly after the trial of STRAFFORD, it became ARUNDEL's duty as Earl Marshal to attend the mother of the queen (MARY of Medicis), on her return to Holland; and he received the King's license to remain beyond the seas during his pleasure. He returned however to England in October of the same year. In the following February, a similar ceremonial mission was his last official employment. He then conducted Queen HENRIETTA MARIA on her journey into France, and took his own last farewell of England. It was an unconscious farewell. Nor does his departure appear to have been dictated by any desire to shrink from sacrifices on behalf of the cause with which—whether rightly or wrongly—all his personal sympathies, as well as the political views of his whole life, were bound up. At the hands of the first STUART he had met with capricious favour, and with enduring injustice. By the second, during several years, he was treated with marked and causeless indignity; and then, during several other years, rewarded grudgingly for zealous service. In exile, his contributions in support of the royal cause were upon a scale which impoverished both himself and his family.*

COLONIZING
EFFORTS OF
LORD
ARUNDEL.

Such a fact is a conclusive proof of magnanimity of spirit, whatever may be thought of its bearings in regard to political insight. Opinion is less likely to differ with respect to exertions of quite another order which occasionally occupied Lord ARUNDEL's mind and energies during at least twenty years of his political life.

One of the best known incidents in his varied career is

* It has been estimated, on competent evidence, that for every one thousand pounds which the Earl's estates in England contributed towards his personal and household expenditure, in exile, twenty-seven thousand pounds were so contributed towards the maintenance, in one form or other, of the royalist cause. Such an estimate can, of course, only be approximative. But it has obvious significance and value.

also one of its most honourable incidents. His friendship for RALEGH grew out of a deep interest in colonization. And the calamitous issue of that famous voyage to Guiana in 1617 which ARUNDEL had promoted was very far from inducing him to abandon the earnest advocacy of a resumption, in subsequent years, of the enterprise which RALEGH had had so much at heart. His efforts were more than once repeated, but the same influences which ruined RALEGH foiled the exertions of ARUNDEL and of those who worked with him.

He then turned his attention towards the wide field of colonial enterprise which presented itself in New England. From the autumn of 1620 until the summer of 1635 he, from time to time, actively supported the endeavours of the 'Council for the Planting of New England.' The Minute in which that Council summed up the causes which induced it, at the date last-named, to resign its charter is an instructive one. It expresses, in few words, the views of Lord ARUNDEL and of his ablest fellows at the board:—
 'We have found,' say the Councillors, in their final Minute, 'that our endeavours to advance the plantation of New England have been attended with frequent troubles and great disappointments. We have been deprived of near friends and faithful servants employed in that work. We have been assaulted with sharp litigious questions before the Privy Council by the Virginia Company, who had complained to Parliament that our Plantation was a grievance.' They proceed to say that a promising settlement which had been established, under the governorship of Captain GORGES in Massachusetts Bay, had been violently broken up by a body of speculative intruders who, without the knowledge of the Council of New England, had found means to obtain a royal 'grant of some three thousand

Book I,
 Chap. IV.
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 LECTOR OF
 THE ARUN-
 DELIAN MSS.

Grant Book,
 James I,
 pp. 307, seqq.
Domest.
Corresp.,
 James I,
 vol. cviii,
 § 85.

Proclamation
Book, May 15,
 1620. (R. H.)

SURRENDER
 OF THE NEW
 ENGLAND
 CHARTER.

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miles of the sea-coast.' Finding it by far too great a task, for their means, to restore what had thus been brought to ruin, ARUNDEL and his fellow-councillors were constrained to resign their charter.

*Colonial
Papers,*
vol. viii, § 58.
(R. H.)

Four years later the Earl formed an elaborate plan for the colonization of Madagascar. But the events of 1639-40 soon made its effectual prosecution hopeless.

DEATH AT
PADUA,
1646.

*Evelyn,
Diary,*
vol. I, p. 212.

Ibid., pp. 218,
219.

The latest notice we have of the Earl of ARUNDEL, from the hand of any eminent contemporary, occurs in the Diary of John EVELYN, and is dated six months before the Earl's death. In June of the preceding year (1645) EVELYN had paid a visit to Lord ARUNDEL at his house in Padua, and had then accompanied him to a famous garden in that city known as the 'Garden of Mantua.' They had also explored together some ancient ruins lying near the Palace of Foscari all' Arena. When EVELYN renewed his visit in March, 1646, the Earl was no longer able to leave the house. 'I took my leave of him,' says the diarist, 'in his bed, where I left that great and excellent man in tears, on some private discourse of crosses that had befallen his family, particularly the undutifulness of his grandson, Philip, turning Dominican friar; and the misery of his country, now embroiled in civil war. He caused his gentleman to give me directions, written with his own hand, what curiosities I should inquire after in my journey; and so—enjoyning me to write sometimes to him—I departed.' The Earl died at Padua on the 24th September, 1646, having entered into the sixty-second year of his age. In compliance with the directions of his Will his remains were brought to England and buried at Arundel.

It remains only to add a few particulars of the character

and sources of the splendid collections which the Earl of ARUNDEL, by the persistent labours and the lavish expenditure of more than thirty years, had amassed. The surviving materials for such an account are, however, very fragmentary. Those which are of chief interest occur in the correspondence which passed between the Earl and Sir Thomas ROE during the embassy of that eminent diplomatist to the Ottoman Porte in the years 1626-1628.

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CHAP. IV.
THE COL-
LECTOR OF
THE ARUN-
DELIAN MSS.

NOTICES OF
THE ARUN-
DELIAN COL-
LECTIONS.

The Earl's zeal as a collector, and the public attention which his personal successes in that character during his Italian travels had soon attracted, naturally excited a like ambition on the part of several of his contemporaries. Conspicuous in this respect were his brother-in-law the Earl of PEMBROKE, and his political rival and enemy the Duke of BUCKINGHAM. ARUNDEL's success in amassing many fine pictures had, in like manner, already attracted the attention of Prince CHARLES to that peculiarly fascinating branch of collectorship.

When Sir Thomas ROE set out for Constantinople he was charged with commissions to search for antiquities on BUCKINGHAM's behalf, as well as on Lord ARUNDEL's. He was himself a novice in such inquiries. He had to encounter excessive difficulties from the jealousy, and sometimes the dishonesty, of the Turkish and other agents whom he was obliged to employ. Most of them were stubborn in their belief that a search for old marbles did but mask the pursuit of buried treasure of greater currency. And to difficulties of this sort was added a standing fear that every service rendered to the Earl Marshal might be esteemed an offence to the powerful favourite at Whitehall.

CORRESPON-
DENCE WITH
SIR THOMAS
ROE.

To an urgent letter which he had received from ARUNDEL just as he was embarking, Sir Thomas replied, from Constantinople, in January, 1622. 'I moved our Consul, Richard

Box I,
asp. IV.
in Col-
lector of
in Arun-
dellian MSS.

MILWARD, at Scio, whom I found prepared and ready,' he reports. 'We conferred about "the Maid of Smirna" which he cannot yet obteyne, without an especiall command [from the Porte]. I brought with mee from Messina the Bishop of Andre, one of the islands of the Arches, a man of good learning and great experience in these parts. Hee assured mee that the search after old and good authors was utterly vaine. . . . The last French ambassador had the last gleanings. Only of some few he gave mee notice as of an old Tertullian, and a piece of Chrisostome . . . which may be procured to be copied, but not the originall. . . . Concerning antiquities in marbles, there are many in divers parts, but especially at Delphos, unesteemed here, and, I doubt not, easy to be procured for the charge of digging and fetchng, which must be purposely undertaken. It is supposed that many statues are buried to secure them from the envy of the Turks, and that, leave obteyned, [they] would come to light, which I will endeavour as soon as I am warm here.' After mentioning that he had already procured some coins, he adds, with amusing naïveté, 'I have also a stone, taken out of the old pallace of Priam in Troy, cutt in horned shape, but because I neither can tell of what it is, nor hath it any other bewty but only the antiquity and truth of being a peece of that ruined and famous building, I will not presume to send it you. Yet I have delivered it to the same messenger, that your Lordship may see it and throw it away.'

in T. Roe
Lord
Arundel,
7 Jan.,
1521 [O. S.];
negotiations,
p. 16.

Two years afterwards the ambassador has to tell Lord ARUNDEL a mingled story of failure and success: 'The command you required for the Greeke to be sent into Morea I have sollicitted [of] two viziers, one after the other, butt they both rejected mee and gave answere, that it was no tyme to graunt such priviledges. Neare to the

port they have not so great doubt and therefore I have prevailed with another, and [have] sent Mr. MARKHAM, assisted with a letter from the Caplen Bassa, whose jurisdiction extends to all the islands and sea-ports. On Asia side, about Troy, Zizicum, and all the way to Aleppo, are innumerable pillars, statues, and tombstones of marble, with inscriptions in Greeke. These may be fetcht at charge, and secrettly; butt yf wee ask leave it cannot be obteyned; therefore Mr. MARKHAM will use discretion rather then power, and so the Turks will bring them for their proffitt.'

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LECTOR OF
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DELIAN MSS.

Ibid,
10 May, 1623,
Negotiations,
p. 154.

ROE's report encouraged Lord ARUNDEL to send an agent, named PETTY, on a special exploring mission into various parts of the Ottoman Empire. The agent thus selected was eminently fitted for his task, and showed himself to be a man of untiring industry. Very soon after PETTY's arrival at Constantinople, Sir Thomas ROE wrote to the Duke of BUCKINGHAM an account of his successful researches, and he prefaced it with an acknowledgement that 'by conference with Mr. PETTY, sent hither by my Lord of ARUNDELL, I have somewhat bettered my skill in such figures. We have searched all this cyttie,' he proceeds to say, 'and found nothing but upon one gate, called anciently *Porta Aurea*, built by CONSTANTINE, bewtified with two mighty pillars, and upon the sides and over it, twelve tables of fine marble cutt into historyes,—some of a very great relevo, sett into the wall with small pillars as supporters. Most of the figures are equall; some above the life some less. They are—in my eye—extremely decayed, but Mr. PETTY doth so prayse them, as that he hath not seene much better in the great and costly collections of Italye. . . . The fower to which I have most affection are both brave and sweete . . . The

Roe to the
Duke of
Buckingham,
11 May, 1623,
Negotiations,
pp. 386-7.

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 ap. IV.
 IN COL-
 LECTOR OF
 E ARUN-
 DELIAN MSS.
 IN PRO-
 SED PAR-
 TITION OF
 SCIENT
 ARTICLES
 BETWEEN
 ARUNDEL
 AND BUCK-
 INGHAM.

relevo so high that they are almost statues, and doe but seeme to sticke to the ground.'

In October of the same year Sir THOMAS sent an elaborate account to the Earl of ARUNDEL of the progress made by PETTY, and of his own exertions to provide him with every possible facility. He told the Earl of the difficulty of his own position towards the Duke of BUCKINGHAM, and besought him to admit of an arrangement by which the product of the joint exertions of ambassador and agent should be divided between the competitors. PETTY, he reports, 'hath visited Pergamo, Samos, Ephesus, and some other places, where he hath made your Lordship great provisions. . . . I have given him forceable commands, and letters of recommendation from the Patriarch. I have bene free and open to him in whatsoever I knewe, and so I will continue for your Lordship's command. But your Lordship knowing that I have received the like from the Duke of BUCKINGHAM, and engaged my word to doe him service hee might judge it want of witt, or will, or creditt, if Mr. PETTY, who could doe nothing but by mee, should take all things before or from mee. Therefore to avoid all emulation, and that I might stand clear before two so great and honourable patrons, I thought I had made agreement with him for all our advantages. Therefore we resolved to take down those sixe mentioned relevos on *Porta Aurea*, and I proceeded so far as I offered 600 dollars for four of them, to bee divided between his Grace and your Lordship by lotts. And if your Lordship liked not the price, Mr. PETTY had his choice to forsake them. But now, I perceave, he hath entituled your Lordship to them all by some right that, if I could gett them, it were an injury to divide them. . . . But I am sorry wee strive for the shadowe. Your Lordship may beleve an honest man, and

your servant, I have tried the bassa,—the capteyne of the Castle,—the overseer of the Grand Signor's works,—the soldiours that make that watch,—and none of them dare meddle. They [the sculptures] stand between two mighty pillars of marble, on other tables of marble supported with less pillars, uppon the cheife port of the Citty, the entrance by the Castle called "The Seaven Towres," which was never opened since the Greeke Emperour lost it, but a counterscarfe and another wall built before it. There is butt one way left in the world, which I will practice. . . . If I gett them not, I will pronounce [that] no man, no ambassadour, shall ever bee able to doe it;—except, also, the Grand Signor, for want, will sell the Castle.'

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LECTOR OF
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DELIAN MSS.

Roe to
Arun-
del,
30 Oct., 1626;
Negotiations,
pp. 444-446.

Just before the date of this letter PETTY had suffered shipwreck on the coast of Asia, when returning from Samos. Together with his papers and personal baggage, he lost the fruits of long and successful researches. But his inexhaustible energies enabled him to recover what, to the men about him, seemed to have hopelessly perished. He found means to raise the buried marbles from the wreck. 'There was never man,' wrote Sir Thomas ROE, with the frank admiration of a congenial spirit, 'so fitted to an employment; that encounters all accidents with so unwearied patience; eates with Greekes on their worst dayes; lyes with fishermen on plancks, at the best; is all thinges to all men, that he may obteyne his ends, which are your Lordship's service.'

Ibid.,
7 April, 1626,
p. 495.

To Dr. GOADE, one of the chaplains of Archbishop ABBOT, Sir Thomas ROE continued the narrative of PETTY's zealous researches, and of the success which attended them. 'By my means,' he wrote, 'Mr. PETTY had admittance into the best library known of Greece, where are loades of old

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manuscripts, and hee used so fine arte, with the helpe of some of my servants, that hee conveyed away twenty two. I thought I should have had my share, but hee was for himselfe. Hee is a good chooser; saw all, or most, and tooke, I thincke, those that were and wilbe of greate esteeme. Hee speaketh sparingly of such a bootye, but could not conteyne sometyme to discover with joy his treasure. . . . I meant to have a review of that librarye, but hee gave it such a blow under my trust that, since, it hath been locked up under two keys, whereof one kept by the townsmen that have interest or oversight of the monastery, so that I could do no good. . . . My hope is to deale with the Patriarch, and not to trust to myselfe, and to chances.'

Ib., p. 500.

In November, 1626, Sir Thomas further informed the Duke of BUCKINGHAM that 'Mr. PETTY hath raked together two hundred peices [of sculpture], all broken, or few [of them] entyre. . . . Hee had this advantage, that hee went himselfe into all the islands, and tooke all he saw, and is now gon to Athens.' In subsequent letters and despatches the diplomatist returns often to this unofficial branch of his duties, and makes it very apparent that PETTY's zeal had, for a time, spoiled the market of the agents who followed in his track.

Ib., p. 570;
comp. pp.
619; 647;
692, and 764.

LORD
ARUNDEL'S
RESEARCHES
IN ITALY.

LORD ARUNDEL was not less ably served by the factors and representatives whom he employed in Italy, in Germany, and in the Netherlands. But the story is far too long to be told in detail. Their success in collecting choice pictures and other works of art was so conspicuous that when one of them had an interview with RUBENS at Antwerp, to give a commission from Lord ARUNDEL, the great painter—himself, it will be remembered, an eminent collector also—said to him: 'I regard the Earl in the light of an evangelist to the world of art, and as the great sup-

MSS. at Norfolk House;
printed in
Tierney's
Arundel,
p. 489.

porter of our profession.' In these artistic commissions and researches William TRUMBULL, Edward NORGATE, Sir John BROUGH, and Sir Isaac WAKE, especially distinguished themselves. Their correspondence with Lord ARUNDEL is spread over a long series of years, and it abounds with curious illustrations of 'the world of art,' as it lived and moved in the earlier part of the seventeenth century.

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Among those entire collections which the Earl purchased in bulk, two are more particularly notable—the museum, namely, of Daniel NICE, and the library of the family of PIRCKHEIMER of Nuremberg.

NICE's Museum was especially rich in medals and gems. If EVELYN's information about the circumstances of that acquisition was accurate, it cost the Earl the sum—enormous, at that date—of ten thousand pounds. I cannot, however, but suspect that into that statement some error of figures has crept.

Evelyn to
Pepys;
*Diary and
Corresp.*,
vol. iii, p. 300.

The acquisition of the PIRCKHEIMER Library was made by the Earl himself, during his diplomatic mission into Germany on the affairs of the Palatinate. In this collection some of the choicest of the Arundelian MSS. which now enrich the British Museum were comprised. Its foundation had been laid more than a hundred and thirty years before the date of the Earl's purchase. But part of the library of the first founder had passed into the possession of the City of Nuremberg. The collection which Lord ARUNDEL acquired was rich both in classical manuscripts and in the materials of mediæval history.

The liberality with which these varied treasures, as they successively arrived in London, were made accessible to scholars was in harmony with the open-handedness by means of which they had been amassed. For a few years Arundel House was itself an anticipatory 'British Museum.'

OK I.
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E COL-
TOR OF
E ARUN-
LIAN MSS.

Then came the civil war. But the injury which the ARUNDEL collections sustained from the insecurity and commotions of a turbulent time is very insignificant, in comparison with that sustained, after the Restoration, through the ignorance and the indolence of an unworthy inheritor.

E SUC-
IONS OF
ID
UNDEL.

The immediate heir and successor of Earl Thomas survived his father less than six years. He died at Arundel House in April, 1652, leaving several sons, of whom the two eldest, Thomas and Henry, became successively Earls of Arundel and Dukes of Norfolk. The first of these was restored to the dukedom in 1660. But the whole of his life, after attaining manhood, was passed in Italy and under the heavy affliction of impaired mental faculties, following upon an attack of brain-fever which had seized him at Padua, in 1645. He never recovered, but died in the city in which the disease had stricken him, lingering until the year 1677. It was in consequence of this calamity that the inheritance of a large portion of the Arundelian collections, and also the possession of Arundel House in London, passed from Earl Henry-Frederick to his second son, Henry.

We learn from many passages both in the Diary and in the Letters of John EVELYN that, under the new owner, Arundel House and its contents were so neglected as, at times, to lie at the mercy of a crowd of rapacious parasites. In one place he speaks of the mansion as being infested by 'painters, panders, and misses.' In another he describes the library as suffering by repeated depredations. He remonstrated with the owner, and at length obtained from him a gift of the library for the newly-founded Royal Society, and a gift of part of the marbles for the University of Oxford. In his Diary he thus narrates

the circumstances under which these benefactions were made :—

Having mentioned that on the destruction of the meeting-place of the Royal Society, its members 'were invited by Mr. HOWARD to sit at Arundel House in the Strand,' he proceeds to say that Mr. HOWARD, 'at my instigation, likewise bestowed on the Society that noble library which his grandfather especially, and his ancestors, had collected. This gentleman had so little inclination to books that it was the preservation of them from embezzlement.' Elsewhere he says that not a few books had actually been lost before, by his interference, the bulk of the collection was thus saved. The gift to the Royal Society was made at the close of the year 1666.

In September of the following year this entry occurs in the same Diary :—' [I went] to London, on the 19th, with Mr. Henry HOWARD of Norfolk, of whom I obtained the gift of his Arundelian Marbles,—those celebrated and famous inscriptions, Greek and Latin, gathered with so much cost and industry from Greece by his illustrious grandfather the magnificent Earl of ARUNDEL. . . . When I saw these precious monuments miserably neglected, and scattered up and down about the garden and other parts of Arundel House, and how exceedingly the corrosive air of London impaired them, I procured him to bestow them on the University of Oxford. This he was pleased to grant me, and now gave me the key of the gallery, with leave to mark all those stones, urns, altars, &c., and whatever I found had inscriptions on them, that were not statues. This I did, and getting them removed and piled together, with those which were encrusted in the garden-walls, I sent immediately letters to the Vice-Chancellor of what I had procured.' On the 8th of October he records a visit

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LECTOR OF
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DELIAN MSS.

GIFT OF THE
ARUNDEL
LIBRARY TO
THE ROYAL
SOCIETY;

Evelyn,
Diary, &c.,
vol. ii,
p. 20.

AND THAT
OF THE
MARBLES
TO THE
UNIVERSITY
OF OXFORD.

Ib., p. 20.
(edit. 1850.)

IK I,
p. IV.
COL-
TOR OF
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IAN MSS.

from the President of Trinity, 'to thank me, in the name of the Vice-Chancellor and the whole University, and to receive my directions what was to be done to show their gratitude to Mr. HOWARD.'

Ten months later, EVELYN records that he was called to London to wait upon the Duke of NORFOLK. The Duke, he says, 'having, at my sole request, bestowed the Arundelian Library on the Royal Society, sent to me to take charge of the books and remove them. Many of these books had been presented by Popes, Cardinals, and great persons, to the Earls of ARUNDEL and Dukes of NORFOLK; and the late magnificent Earl of ARUNDEL bought a noble library in Germany which is in this collection. I should not, for the honour I bear the family, have persuaded the Duke to part with these, had I not seen how negligent he was of them; suffering the priests and everybody to carry away and dispose of what they pleased, so that abundance of rare things are irrecoverably gone.'

pp. 122,

A curious narrative communicated, almost a century afterwards, to the Society of Antiquaries, by James THEOBALD, proves that in this respect the gallery of antiquities—notwithstanding the noble benefaction to Oxford—was even more unfortunate than the library of books. At the time when these gifts were obtained for Oxford and for the Royal Society, another extensive portion of the original collections had already passed into the possession of William HOWARD, Viscount Stafford, and had been removed to Stafford House. Lord STAFFORD was a younger son of the collector, and appears to have received the choice artistic treasures which long adorned his town residence by the gift of his mother. According to EVELYN, Lady ARUNDEL also 'scattered and squandered away innumerable other

VERSION
LET OF
ARUN-
MAR-

rarities, . . . whilst my Lord was in Italy.' But in this instance he appears to speak by hearsay, rather than from personal knowledge. TIERNEY, the able and painstaking historian of the family, asserts that its records contain no proof whatever of the justice of the charge. And he traces the origin of EVELYN'S statement to a passage in one of the letters of FRANCIS JUNIUS, in which it is said of Lady ARUNDEL that she 'carried over a vast treasure of rarities, and convaighed them away out of England.' Even to JUNIUS, notwithstanding his connection with the family, the charge may have come but as a rumour.

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DELIAN MSS.

*History of
Arundel,*
p. 509.

Be that as it may, the subsequent dispersion of many treasures of art which the Earl had collected with such unwearied pains and lavish expenditure is unquestionable.

Lord Henry HOWARD, it has been shown, excepted the 'statues' from his gift to the University. They remained at Arundel House, but so little care was bestowed upon their preservation that when the same owner afterwards obtained an Act of Parliament empowering him to build streets on part of the site of Arundel House and Gardens, many of these statues were broken by the throwing upon or near them of heaps of rubbish from the excavations made, in the years 1678 and 1679, for the new buildings. These broken statues and fragments retained beauty enough to attract from time to time the admiration of educated eyes when such eyes chanced to fall upon them. Those which long adorned the seat of the Earls of POMFRET, at Easton Neston, in Oxfordshire, were purchased by Sir William FERMOR, and were given to the University of Oxford by one of his descendants. Others which are, or were, at Fawley Court, near Henley, were purchased by Mr.

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FREEMAN. Others, again, were bought by Edmund WALLER, the poet, for the decoration of Beaconsfield.

Still more strange was the fate which befell certain other marbles which Lord Henry (by that time Duke of NORFOLK) caused to be removed from Arundel House to a piece of waste ground belonging to the manor of Kennington. These the owner seems to have regarded as little better than lumber. It is therefore the less surprising that his servants took so little care of them as to suffer them to be buried, in their turn, beneath rubbish which had been brought to Kennington from St. Paul's, during the rebuilding of that cathedral. By-and-bye, precious marbles, excavated amidst so many difficulties arising from Turkish barbarism in Asia Minor, had to be re-excavated in England. Many years after their second burial, some rumour of the circumstance came to the knowledge of the Earl of BURLINGTON, and by his efforts and care something was recovered. But the researches then made were, in some way, interrupted. They were afterwards resumed by Lord PETRE. 'After six days' of excavation and search, says an eye-witness, 'just as the workmen were going to give over, they fell upon something which gave them hopes. Upon further opening the ground they discovered six statues, . . . some of a colossal size, the drapery of which was thought to be exceeding fine.' These went eventually to Worksop.

Narrative by
Theobald;
printed in
*Anecdotes of
Howard
Family*,
pp. 101—120.

Some Arundelian marbles were, it is said, converted into rollers for bowling-greens. The fragments of others lie in or beneath the foundations of the houses in Norfolk Street and the streets adjacent.

The Stafford-House portion of the collections—which included pictures, drawings, vases, medals, and many miscellaneous antiquities of great curiosity—was sold by auction

in 1720. At the prices of that day the sale produced no less a sum than £8852.

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The Arundelian cabinet of cameos and intaglios, now so famous under the name of 'The Marlborough Gems,' was offered to the Trustees of the British Museum for sale, at an early period in the history of the institution. The price asked by the then possessor, the Duchess Dowager of NORFOLK, was £10,000. But at that time the funds of the nascent institution were inadequate to the purchase.

It affords conspicuous proof of the marvellous success which had attended Lord ARUNDEL's researches to find that the remnants, so to speak, of his collections retain an almost inestimable value, after so many losses and loppings. They are virtually priceless, even if we leave out of view all that is now private property.

When the Arundelian MSS. were transferred, in the years 1831 and 1832, to the British Museum, their money value—for the purposes of the exchange as between the Royal Society and the Museum Trustees—was estimated (according to the historian of the Royal Society) at the sum of £3559. This sum was given by the Trustees, partly in money, and partly in printed books of which the Museum possessed two or more than two copies. The whole of the money received by the Royal Society was expended by its Council in the purchase of other printed books. So that both Libraries were benefited by the exchange.

Weld,
*History of
the Royal
Society*,
vol. ii,
pp. 448, 449.

It may deserve remark that a somewhat similar transfer had been contemplated and discussed during the lifetime of the original donor. The project, at that period, was to make an exchange between the Royal Society and the University of Oxford. The University induced EVELYN

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Evelyn to
Howard;
14 March,
1669.

to recommend Lord Henry HOWARD to sanction an exchange of such MSS. 'as concern the civil law, theology, and other scholastic learning, for mathematical, philosophical, and such other books as may prove most useful to the design and institution of the Society.' But at that time, after much conference, it was otherwise determined.

The heraldical and genealogical books belonging to the original ARUNDEL Library were given, at the date of the first transfer of the bulk of the collection to the Royal Society, to the Heralds' College. They still form an important part of the College Library, and they include valuable materials for the history of the family of HOWARD.

CHAPTER V.

THE COLLECTOR OF THE HARLEIAN MSS.

'A soul supreme, in each hard instance tried,
Above all pain, all passion, and all pride,
The rage of power, the blast of public breath,
The lust of lucre, and the dread of death.—
POPE, *Epistle to Robert, Earl of Oxford, in the Tower.*

'Whether this man ever had any determined view besides that of raising his family is, I believe, a problematical question in the world. My opinion is that he never had any other. . . . Oxford fled from Court covered with shame, the object of the derision of the Whigs and of the indignation of the Tories.'—BOLINGBROKE, *Letter to Sir W. Wyndham.*

The HARLEY Family.—Parliamentary and Official Career of Robert HARLEY, Earl of Oxford.—The Party Conflicts under Queen ANNE.—Robert HARLEY and Jonathan SWIFT.—HARLEY and the Court of the Stuarts.—Did HARLEY conspire to restore the Pretender?—History of the Harleian Library.—The Life and Correspondence of Humphrey WANLEY.

ROBERT HARLEY was the eldest son of Sir Edward HARLEY, of Brampton Bryan, in Herefordshire, by his second wife, Abigail, daughter of Nathaniel STEPHENS, of Essington, in Gloucestershire. He was born at his father's town-house in Bow Street, Covent Garden, in the year 1661.

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LECTOR OF
THE HAR-
LEIAN MSS.

The HARLEYS had been a family of considerable note in Herefordshire during several centuries. Many generations of them had sat in the House of Commons, sometimes for boroughs, but not infrequently for their county. Sir Edward

THE HARLEY
FAMILY.

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sided with the Parliamentarians during the Civil Wars. He was, however, one of those moderate statesmen who, in the words of a once-celebrated clerical adherent and martyr of their party, Christopher LOVE, judged it 'an ill way to cure the body politic, by cutting off the political head.' In due time he also became one of those 'secluded members' of the Long Parliament who published the 'Remonstrance' of 1656, and who were then as strenuous—though far less successful—in opposing what they deemed to be the tyranny of the Protector, as they had formerly been in opposing the tyranny of the King. Sir Edward HARLEY promoted the restoration of CHARLES THE SECOND, and sat in all the Parliaments of that reign. He distinguished himself as a defender of liberty of conscience in 'unpropitious times'; and he won, in a high degree, the respect of men who sat beside him in the House of Commons, but were rarely counted with him upon a division.

The first public act of Robert HARLEY of which a record has been kept is his appearance with his father, in 1688, at the head of an armed band of tenantry and retainers, assembled in Herefordshire to support the cause of the Prince of ORANGE, when the news had come of the Prince's arrival in 'Torbay.

HARLEY'S
PARLIAMEN-
TARY
CAREER.

In the first Parliament of WILLIAM and MARY Robert HARLEY sat for Tregony. To the second he was returned by the burgesses of New Radnor. The first reported words of his which appear in the debates were spoken in the course of a discussion upon the heads of a 'Bill of Indemnity.' 'I think,' said he on this occasion, 'that the King in his message has led us. He shews us how to proceed for satisfaction of justice. There is a crime [of which] God says, He will not pardon it. 'Tis the shedding of innocent blood. A gentleman said that the West was "a

Grey's
Debates,
vol. ix, p. 247.

shambles." What made that shambles? It began in law. It was a common discourse among the Ministers that "the King cannot have justice." The debate on the Bill of Indemnity of 1690 may be looked upon as, in some sort, the foreshadowing of a long spell of political conflict, in which Robert HARLEY was to take a conspicuous share. Twenty seven years afterwards the strife of parties was to enter on a new stage. Some of the men who acted as the political Mentors of the new member of 1689-90 were to live long enough to clamour for his execution as a traitor, and, on their failure to produce any adequate proof that he was guilty, were to console themselves by insisting on his exclusion from the 'Act of Grace' of 1717.

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HARLEY won his earliest distinctions in political life by assiduous, patient, and even drudging labour on questions of finance. During six years, at least, he worked zealously as one of the 'Commissioners for stating the Public Accounts of the Kingdom.' In parliamentary debates on the public establishments and expenditure he took a considerable share. As a speaker he had no brilliancy. His usual tone and manner, we are told, were somewhat listless and drawling. But occasionally he would speak with a certain pith and incisiveness. Thus, in November, 1692, in a discussion on naval affairs, he said—'We have had a glorious victory at sea. But although we have had the honour, the enemy has had the profit. They take our merchant ships.' Again, in the following year, when supporting the Bill for more frequent Parliaments, he spoke thus:—'A standing Parliament can never be a true representative. Men are much altered after they have been here some time. They are no longer the same men that were sent up to us.'

MS. Harl.
7524, f. 139,
seqq.

Grey's
Debates,
vol. x, p. 268.

Of the truth of that saying, in one of its senses, HARLEY

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THIS SPEECH
IN THE
STAINDE
OF FENWICK.

became himself a salient instance. Bred a Whig, and during his early years acting commonly with the Whigs, his party ties were gradually relaxed. By temper and mental constitution he was always inclined to moderate measures. As the party waxed fiercer and fiercer, and as its policy came to be more and more obviously the weapon of its hatreds, HARLEY soon lay open to the reproach of being a trimmer. The growing breach became evident enough in the course of the debates on the treason of Sir John FENWICK, in November, 1696. He then argued, with force and earnestness, that atrocity in a crime is no justification or excuse for violence and unscrupulousness in a prosecutor. Some of his applications of that sound doctrine are very questionable. But it is to his honour that he preached moderation with consistency. He did not bend it to the exigencies of the party he was approaching, any more than to those of the party from which he was gradually withdrawing himself.

Meanwhile he had signalised his powers in another way. By long study he had acquired a considerable knowledge of parliamentary law and precedent. He had taken his full share in the work of committees. In February, 1701, he was proposed for the Speakership, in opposition to Sir Thomas LITTLETON. He had a large body of supporters, nor were they found exclusively in the Tory ranks. The King sent for LITTLETON, and told him that he thought it would be for the public service that he should give way to the choice of Mr. HARLEY in his stead. But the election was carried by a majority of only four votes. 'It is a great encouragement to his party,' wrote TOWNSHEND to WALPOLE, who was then in the country, 'and no small mortification to the Whigs.' HARLEY retained the Speaker-

ship until the third session of the first Parliament of Queen ANNE.

Whatever may have been the 'mortification of the Whigs' at his elevation, it is certain that at this time HARLEY laboured zealously for the establishment of the Protestant succession to the throne. In the preparation, facilitating, and passing of that measure he took so influential a part that, afterwards, he was able to say, in the face of his opponents, when they were most numerous and most embittered, 'I had the largest hand in settling the succession of the House of Hanover.' The assertion met with no denial.

It is evident, too, that the qualities for which he was already reviled by extreme partisans on both sides were—in their measure—real qualifications, both for the office of Speaker and for the special task of that day. The party leaders who were then most eagerly followed were men bent on crushing their adversaries as well as conquering them. It was inevitable that by such men HARLEY's moderation towards opponents should be regarded as more cajolery. And of that unhappy quality he was destined, at a later day, to acquire but too much.

On the 27th of April, 1704, Mr. Speaker HARLEY WAS sworn of the Privy Council. On the 18th of May he received the seals as one of the Principal Secretaries of State. He had scarcely entered on the duties of his office before he was busied with precautionary measures in Scotland against an anticipated Jacobite insurrection, as well as with a large share of the foreign correspondence. But just at that busy time he found means to begin—though he could not then complete—an act of charity which is memorable both on the recipient's account and on the score of some

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HARLEY AND
THE ACT OF
SUCCESSION.

1701.
March.

THE SECRE-
TARYSHIP OF
STATE, 1704.

*Privy Council
Register,*
Anne, vol. ii,
p. 102.

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LEIAN MSS.

well-known political consequences which eventually grew thereout.

HARLEY'S
PROTECTION
OF DE FOX,
1704.

At the time when HARLEY became a member of the GODOLPHIN administration Daniel DE FOX lay in Newgate, under a conviction for seditious libel, committed in the publication of his famous tract, *The Shortest Way with the Dissenters*. The new Secretary sent a confidential person to the prison with instructions to visit DE FOX, and to ask him, in the Minister's name, 'What can I do for you?' DE FOX's characteristic reply must be given in his own words:—'In return for this kind and generous message I immediately took pen and ink, and writ the story of the blind man in the Gospel, . . . to whom our blessed Lord put the question, "What wilt thou that I should do unto thee?" who—as if he had made it strange that such a question should be asked, or as if he had said, "Lord, dost thou see that I am blind, and yet ask me what thou shalt do for me?"—my answer is plain in my misery, "Lord that I may receive my sight." I needed not to make the application.'

De Fox,
*Appeal to
Honour and
Justice*, p. 11.

DE FOX then adds:—"From this time, as I learned afterwards, this noble person made it his business to have my case represented to Her Majesty, and methods taken for my deliverance.' But the bigots who had caused a malicious prosecution succeeded in delaying the successful issue of the Secretary's efforts during four months. With HARLEY the sufferer had had no previous acquaintance. The one designation under which he ever afterwards spoke of him was 'my first benefactor.' And the gratitude was life-long.

In part, HARLEY owed his new office to the personal credit which he had won with the Queen during his

Speakership; and in part, also, to the friendship of MARLBOROUGH. On receiving the news of his appointment the Duke wrote to him, from the Camp:—‘I am sensible of the advantage I shall reap by it, in having so good a friend near Her Majesty’s person to present in the truest light my faithful endeavours for her service.’ But their intercourse, if it ever attained to true cordiality at all, was cordial for a very short time. Brief confidence was followed by long distrust. HARLEY strove to strengthen himself by the use of channels of Court influence which were utterly inimical to the MARLBOROUGH connection. His efforts to make himself independent of that connection did not, however, lessen the prodigality of his assurances of friendship and fidelity.

His political position thus became that of a man who was exposed to the attacks of many bitter enemies among the statesmen with whom he had begun his career, without being able to rely upon any hearty support from those with whom he now shared the conduct of affairs. He might count, indeed, on assailants from the ranks both of the extreme Whigs and the extreme Tories, whilst from most of his own colleagues of the intermediate party he would have to meet the greater danger of a lukewarm defence. In such a position the attack was not likely to be long waited for.

Easiness of nature, and a tendency to alternate fits of close application with fits of indolence, always characterised him. And those qualities had an incidental consequence which opened to his opponents a tempting opportunity. HARLEY was habitually less careful of official papers than it behoved a Secretary of State to be.* He was also at all times prone to place a premature and undue confidence in

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Marlborough
to Harley;
18 June,
1704.

* See the details in Lords’ Report on Gregg’s case; reprinted in *State Trials*, vol. xiv, cols. 1378 seqq.

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THE CRIME
OF WILLIAM
GREGG, AND
THE USE
MADE OF IT
BY HARLEY'S
ENEMIES.

Appendix to
to Gregg's
Trial, &c.,
in *State
Trials*,
vol. xii,
pp. 694 seqq.

DISMISSED
FROM OF-
FICE.
Feb., 1708.

his dependants. In 1707, William GREGG, one of the clerks in his office, abused his confidence by secretly copying some letters of the highest importance and by selling the copies to the Court of France.

The treachery was discovered by the Secretary himself, and such steps were taken to lessen the mischief as the case admitted. Much excitement naturally followed upon the publicity of the crime. The least scrupulous of HARLEY's enemies conceived a hope that the traitor who had served the public enemy for a bribe might also be tempted to ruin his master for another and greater bribe. Means were found to convey to GREGG strong assurances of a certain escape, and of a wealthy exile, if he would but declare that he had copied the despatches, and forwarded the transcripts, by the Secretary's direction. Pending the attempt, they circulated throughout the country a report that such a declaration had actually been made, and that the Secretary was to be impeached. But the clerk, instead of betraying his master, exposed his temptors. His first emphatic declaration of HARLEY's innocence was repeated immediately before his death in these words:—'As I shall answer it before the judgment seat of Christ, the gentleman aforesaid [*i. e.* HARLEY] was not privy to my writing to France, neither directly nor indirectly.'

HARLEY himself, and also his nearest friends, were wont to speak of this affair as one that had brought his life into real peril. It is certain that the incident and its consequences helped materially to make his continuance in office impossible. But he struggled hard.

Meanwhile, the dissensions in the Ministry were daily increasing. They became so bitter as to lead to personal altercations at the Council Board, even when the Queen herself was present. On one such occasion (February,

1708) GODOLPHIN and MARLBOROUGH went together to the Queen a little before the hour at which a Cabinet Council had been summoned. They told her they must quit her service, since they saw that she was resolved not to part with HARLEY. 'She seemed,' says Bishop BURNET, 'not much concerned at the Lord GODOLPHIN's offering to lay down; and it was believed to be a part of HARLEY's new scheme to remove him. But she was much touched with the Duke of MARLBOROUGH's offering to quit, and studied, with some soft expressions, to divert him from that resolution; but he was firm; and she did not yield to them.' So they both went away, without attending the Council, 'to the wonder of the whole Court.'

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LEIAN MSS.

Burnet,
*History of
his own Time*,
vol. v, pp.
343, 344
(edit. 1523).

When the Council met, it became part of HARLEY's duty as Secretary to deliver to the Queen a memorial relating to the conduct of the war. The Duke of SOMERSET rose, as the Secretary was about to read it, and with the words 'If Your Majesty suffers that fellow' (pointing to HARLEY) 'to treat affairs of the war without the General's advice, I cannot serve you,' abruptly left the Council. 'The rest,' according to BURNET, 'looked so cold and sullen that the Cabinet Council was soon at an end.'

Swift to
Archbishop
King, 12 Feb.
1708.
Comp.
Burnet, as
above.

Whilst a result which—for the time—had thus become so plainly inevitable, remained still doubtful, HARLEY had imposed on himself the humiliating task of assuring the Duke of MARLBOROUGH of the honesty of his former professions of attachment. 'I have never writ anything to you,' said he, 'but what I really thought and intended.' And then he went on to say:—'I have for near two years seen the storm coming upon me, and now I find I am to be sacrificed to sly insinuations and groundless jealousies.' These words were written in September, 1707. On the

HARLEY'S
DISMISSAL
FROM THE
SECRETARY-
SHIP.
Feb., 1708.

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LEIAN MSS.

Marlborough
to Count
Wratislaw,
10 Feb., 1708.

THE IN-
TRIGUE
AGAINST THE
GODOLPHIN
MINISTRY.
1708-1710.

10th of February in the following year, MARLBOROUGH had, at length, the satisfaction of writing from St. James' to a foreign correspondent :—' Mr. Secretary HARLEY has this afternoon given up the seals of office to the Queen. Between ourselves he richly deserves what has befallen him.* Among the two or three friends who went out with HARLEY was Henry St. JOHN.

For the next two years and a half, HARLEY's principal occupation was to prepare the way for a return, in kind, of the defeat thus inflicted upon him. Some of the steps by which he achieved his end are among the most familiar portions of our political history. But from the necessities of the case it has been, and probably it must continue to be, one of those portions in which the basis of truth can scarcely, by any researches that are now possible, be separated from the large admixture of falsehood built thereon by party animosities.

His own correspondence shows that strong hopes of success in the effort were entertained within eight months of his dismissal. It shows also that the channel employed, unsuccessfully, in 1708, was that which became an effectual one in 1710.

* In the interval between June, 1707 (after the Union with Scotland), and February, 1708, the following entries occur in the Council Books :—

'1 July, 1707. The Rt. Hon. Robert Harley, one of Her Majesty's principal Secretaries of State, delivered up the old signet of office—which was thereupon broken before Her Majesty—and received a new one by the Queen's command.' The entry is followed by the note :—'This order was thus drawn by Mr. Harley's particular direction.' (*Register of Privy Council*, Anne, vol. iii, p. 395.)

'8 January, 1707½. The Rt. Hon. R. Harley, . . . having this day presented to Her Majesty in her Privy Council a new signet with supporters, Her Majesty was pleased to deliver it back to him, whereupon he returned to Her Majesty the old signet, which was immediately defaced.' &c. (*Ib.*, p. 485.)

Early in October, HARLEY received from the Court an unsigned letter in which these passages occur :—‘The Queen stands her ground and refuses to enter into any capitulation with the [Whig Lords]. She has not hitherto consented to offer or hear of any terms. The Lord T[reasure]r desired she might allow him to treat with ’em, and the Duke of S[OMERSE]T was employed to persuade her, but she was inflexible. The Lord Treasurer offered to resign the Staff, but she would neither take the Staff nor advice from him, and he went to Newmarket without getting any powers or leave to treat. . . . Your friend cannot answer for the event. . . . I will add no more but that your friend thinks your being here is very necessary, and that Her Majesty . . . would be the better of assistance and good advice.’

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LEIAN MSS.

Harley
Corresp. in
MS. Harl.
7526, f. 237.

It was not, however, until the 8th of August, 1710, that the GODOLPHIN Ministry was dismissed. Two days afterwards, HARLEY was made Chancellor of the Exchequer; the Treasury being put into commission.

He entered upon that office amidst enormous obstacles. His enemies were unable to deny that his exertions to overcome the difficulties in his path were marked by financial ability, and by a large measure of temporary success. But as little can it be denied that the immediate triumph laid the groundwork of public troubles to come.

THE CHAN-
CELLORSHIP
OF THE
EXCHEQUER.
1710,
August.

His own account of the situation of affairs, and of the methods taken to improve it, must, of course, be read with the due allowance. The pith of it lies in these sentences :—‘The army was in the field. There was no money in the Treasury. None of the remitters would contract again. The Bank had recently refused to lend the Lord Treasurer GODOLPHIN a hundred thousand pounds. The Army and Navy Services were in debt nearly eleven millions. The

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*Letter to the
Queen,
June 9, 1714.
(Part. Hist.,
vol. vii, App.)*

Civil List owed £600,000. The annual deficit was, at least, a hundred and twenty-four thousand pounds. The new Commissioners of the Treasury, nevertheless, made provision, within a few days of their appointment, for paying the Army by the greatest remittance that was ever known. When Parliament met, on the 27th of November, funds had been prepared for the service of the year, and a plan was submitted for easing the nation of nine millions of debt.'

HARLEY was scarcely warm in his new office before he made the acquaintance of SWIFT, then full of ambitious though vague schemes for the future, and very angry with the leaders of the Whig party for the coolness with which his proffers, both of counsel and of service, had lately been received.

EARLY IN-
TERCOURSE
WITH SWIFT.
1710-1711.

At the time of his introduction to HARLEY, SWIFT'S immediate business in London consisted in soliciting from the Government a remission of first-fruits to the clergy of Ireland. His nominal colleagues in that trust were the Bishops of Ossory and Killaloe, but the whole weight of the negotiations rested upon SWIFT'S shoulders. His treatment of it soon displayed his parts. The Minister saw that he was both able and willing to render efficient political service. To the intercourse so begun we owe a life-like portraiture of HARLEY, under all his aspects, and in every mood of mind. Nor is the depicter himself anywhere seen under stronger light than in those passages of his journal which narrate, from day to day, the rise and fall of the Government founded on the unstable alliance between HARLEY and ST. JOHN.

Of their first interview SWIFT notes:—'I was brought privately to Mr. HARLEY, who received me with the greatest respect and kindness imaginable.' Of the second:—'We

were two hours alone. . . . He read a memorial I had drawn up, and put it into his pocket to show the Queen ; told me the measures he would take, . . . told me he must bring Mr. ST. JOHN and me acquainted ; and spoke so many things of personal kindness and esteem for me, that I am inclined half to believe what some friends have told me, that he would do everything to bring me over.' When the promised interview with Secretary ST. JOHN comes to be diarized in its turn :—' He told me,' says SWIFT, ' among other things, that Mr. HARLEY complained he could keep nothing from me, I had the way so much of getting into him.' I knew that was a refinement. . . . It is hard to see these great men using me like one who was their betters, and the puppies with you in Ireland hardly regarding me.' Not many weeks had passed before SWIFT's pen was at work in defence of the measures of the Government with an energy, a practical and versatile ability, of which, up to that date, there had been scarcely an example, brilliant as was the roll of contemporary writers who had taken sides in the political strife. SWIFT's defects, as well as his merits, armed him for his task.

Nor had he been long engaged upon it before he marked, very distinctly, the character both of the rewards to which he aspired, and of the personal independence which he was determined to maintain, in his own fashion.

One day, as he took his leave of HARLEY, after dining with him, the Minister placed in his hand a fifty pound note. He returned it angrily. And he met HARLEY's next invitation by a refusal. Then comes this entry in his diary :—' I was this morning early with Mr. LEWIS, of the Secretary's office, and saw a letter Mr. HARLEY had sent to him desiring to be reconciled ; but I was deaf to all entreaties, and have desired LEWIS to go to him and let

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LECTOR OF
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LEIAN MSS.

*Journal to
Stella ; in
Works, 2nd
Edit., vol. ii,
pp. 33 ; 37 ;
80.*

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 LECTOR OF
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 LEY MSS.

*Journal to
 elle, p. 169.*

, pp. 178;
 2.

him know I expect further satisfaction. If we let these great Ministers pretend too much there will be no governing them. He promises to make me easy if I will but come and see him. But I will not, and he shall do it by message, or I will cast him off.' The desired concession was made, and in a day or two we find our journalist recording, characteristically enough, that he 'sent Mr. HARLEY into the House to call the Secretary [ST. JOHN], to let him know I would not dine with him if he dined late.' And then:—'I have taken Mr. HARLEY into favour again. . . . I will cease to visit him after dinner, for he dines too late for my head. . . . They call me nothing but "Jonathan," and I said I believed they would leave me Jonathan as they found me, and that I never knew a Ministry do anything for those whom they make companions of their pleasures.'

SWIFT was one of the first bystanders who took note of the seeds of dissension which were already growing up between HARLEY and ST. JOHN, and who foresaw the coming parallel between the fate of the new Government and that of its predecessor. On the 4th of March, 1711, he wrote:—'We must have a Peace, let it be a bad or a good one; though nobody dares talk of it. The nearer I look upon things the worse I like them. I believe the Confederacy will soon break to pieces, and our factions at home increase. The Ministry is upon a very narrow bottom, and stands like an isthmus between the Whigs on one side, and the violent Tories on the other. They are able seamen, but the tempest is too great, the ship too rotten, and the crew all against them. . . . Your Duchess of SOMERSET, who now has the key, is a most insinuating woman, and I believe they [the Whigs] will endeavour to play the same game that has been played against them.'

p 196.

The game was suddenly interrupted, though only for a while. An attempt to assassinate HARLEY gave him a renewed hold upon power and popularity. But its unexpected consequences embittered the jealousies which already menaced his administration with ruin.

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Antoine de GUISCARD was a French adventurer, whose private life had been marked by great profligacy. He had taken an obscure part in the insurrection of the Cevennes—rather as a recruiting agent than as a combatant. In that character he had met with encouragement to raise a refugee regiment in England. Hopes had also been held out to him that a British auxiliary contingent would be landed on the southern coast of France. In the course, however, of some preliminary inquiries into the position of the insurrectionists, it was found that such an invasion would have little chance of any useful result, and the project was abandoned. Meanwhile, a pension of £400 a year had been bestowed on the emissary.

GUISCARD'S
ATTEMPT ON
THE LIFE OF
HARLEY.
1711,
March.

But ere long it was discovered that GUISCARD had profited by opportunities, afforded him in the course of the discussions about the proposed expedition, to make himself conversant with many particulars of military and naval affairs, and that it was his habit to send advices into France. Some of his letters were seized. Their writer was arrested on the 8th of March, 1711, and was taken, immediately, before a Committee of the Privy Council.

When examined as to his illicit intercourse with France he persisted in mere denials. At length, one of his letters was shown to him by HARLEY, and he was closely pressed as to his motives in writing it. He then addressed himself to Secretary ST. JOHN, and begged permission to speak with him apart. The Secretary answered, 'You are here before the Council as a criminal. Whatever you may have to say

OK I,
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'must be said to all of us.' The man persisted in refusing to reply to any further questions, unless his request was granted. Seeing that nothing more could then be obtained from him, the Lord President rose to ring the bell for a messenger, that the prisoner might be removed in custody.

At that moment the prisoner pulled a penknife from his pocket, turned towards HARLEY, near to whom he stood, and stabbed him in the breast. He repeated the stroke, and then rushed towards ST. JOHN. But between the prisoner and the Secretary there stood a small table, over which he stumbled. ST. JOHN drew his sword, and, with the words 'The villain has killed Mr. HARLEY,' struck at him, as did also the Duke of ORMOND and the Duke of NEWCASTLE. Lord POWLETT cried out 'Do not kill him.' Presently the assassin was in the hands of several messengers, with whom, notwithstanding his wounds, he struggled so desperately that more than one of them received severe injuries. When at length overpowered, he said to ORMOND, 'My Lord, why do you not despatch me?' 'That,' replied the Duke, 'is not the work of gentlemen. 'Tis another man's business.'

HARLEY's wound was so severe that for several days there was a belief that it would prove mortal. It entailed a lingering illness.* Before his recovery, his assailant died in

* Swift's account of their first interview after Harley's partial recovery merits quotation :—'I went in the evening,' he notes on the 5th of April, 'to see Mr. Harley. Mr. Secretary was just going out of the door, but I made him come back; and there was the old Saturday club, Lord Keeper [Harcourt], Lord Rivers, Mr. Secretary, Mr. Harley, and I; the first time since his stabbing. Mr. Secretary went away, but I stayed till nine, and made Mr. Harley show me his breast and tell all his story. . . . I measured and found that the penknife would have killed him, if it had gone but half the breadth of my thumb-nail lower; so near was he to death. I was so curious as to ask him what

prison. The coroner's inquest ascribed GUISCARD's death to bruises received from one of the messengers who strove to bind him, but SWIFT tells us that he died of the sword-wounds.

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That keen observer had seen, long before this attempted assassination, the latent personal jealousies between HARLEY and ST. JOHN. He had recognised in those jealousies the gravest peril of HARLEY's government. GUISCARD's crime had now made HARLEY the most popular man in the country, and it had doubled his favour with the Queen. On his recovery, he received the congratulations of the House of Commons, expressed with more than usual emphasis. By the Queen he was raised to the peerage (24 May, 1711) as Earl of OXFORD and Earl MORTIMER. Five days afterwards (29 May) he was made Lord High Treasurer. His elevation intensified the jealousy of ST. JOHN into something which already closely resembled hatred, although years were to elapse before the mask could be quite thrown aside. It is amusing to read the philosophical reflection with which the Secretary sent the news to Lord OSSORY :—' Our friend Mr. HARLEY is now Earl of OXFORD and High Treasurer. This great advancement is what the labour he has gone through, the danger he has run, and the services he has performed, seem to deserve. But he stands on slippery ground, and envy is always near the great to fling up their heels on the least trip which they make.'

*Journal to
Stella,*
pp. 202-214.

HARLEY
BECOMES
LORD HIGH
TREASURER.

*Journals of
H. of Com-
mons, 1711.*
27 April.

*Council
Register,*
Anne, vol. v,
p. 249.

St. John to
Lord Ossory ;
1711, 12 June
(*Corresp.* i,
148).

The Earl of OXFORD had not long obtained the Treasurer's staff before he received some characteristic exhortations from the Jacobite section of his Tory supporters of the

were his thoughts while they were carrying him home in the chair. He said he concluded himself a dead man.'—*Journal to Stella*, as before, pp. 255, 256.

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use which he ought to make of it. ATTERBURY came to him, on the part of some of the Treasurer's 'particular friends,' to acquaint him how uneasy they were that he had neither dissolved the Parliament, nor removed from office nearly so many Whigs as those particular friends wished to see removed. 'I know very well,' replied the Earl, 'the men from whom that message comes, and I am also very sensible of the difficulties I have to struggle with. If, in addition, I must communicate all my measures, it will be necessary for me to assure Her Majesty that I can no longer do her any service.'

OXFORD
 AND THE
 OCTOBER
 CLUB.

These hot-headed politicians had already formed their famous 'October Club.' They were about a hundred and fifty in number, and for a few months their proceedings made a great noise. The Treasurer found means to deal with them in a more effectual fashion than that in which they had endeavoured to deal with the administration. 'By silent, quiet steps, in a little time,' says a writer who watched the process and aided it, 'he so effectually separated these gentlemen, that in less than six months the name of "October Club" was forgotten in the world. . . . With so much address was this attempt overthrown, that he lost not the men, though he put them by their design.'

De Foe,
*Secret History of the
 White Staff.*

Those brief sentences indicate, I think, the fatality of the position in which OXFORD now placed himself. He had ardently desired to gain the control of affairs, at a period of exceptional difficulty. And, at the best, his capacity and energies would have been barely equal to the task in times of exceptional ease. Some of the very qualities, both of mind and heart, which made him beloved by those who lived with him, weakened him as a statesman. He was surrounded by adepts in political intrigue, some of whom

combined with an experience not less than his own, far greater powers of mind, an unbending will, and an utter unscrupulousness as to the use of means. He vainly flattered himself that he could beat these men at their own weapons. His temporary success laid a foundation for his eventual ruin.

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To gain the aid of the Jacobite Tories in Parliament he held out hopes which it was never his intention to realise. He carried on an indirect correspondence with the Stuart Court in a way sufficiently adroit to induce that Court to instruct its adherents to support the negotiations for the Peace with France. He would commit himself to nothing until Peace was made. The conclusion of a Peace was the one measure on which he was firmly bent. He had contended that the true interests of Britain demanded the ending of an exhausting war many years before. And whatever the demerits and shortcomings of the Treaty of Utrecht, it had at least the merit of making the quiet succession of the House of Hanover possible.

OXFORD AND
THE COURT
OF THE
STUARTS.

In March, 1713, the French agent in England, the Abbé GAUTIER, wrote to the Marquis de Torcy an account of an interview he had obtained with the Lord Treasurer:—‘M. Vanderberg’ [*i. e.* Lord OXFORD], he says, ‘sent for me, seven or eight days ago, to tell me something of importance. Indeed, he opened his mind to me, making me acquainted with his feelings towards Montgourlin [*i. e.* the Pretender], and the desire he had to do him service, as soon as the Peace shall be concluded. . . . It will not be difficult, because the Queen is of his opinion. But, in the mean time, it is essential that Montgourlin should make up his mind; that he should declare that it is not his intention to continue to reside where he now is. He must say, publicly, and especially before his family, that when the Peace

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Gautier to
De Torcy;
1713,
March.
[Printed
in *Edin.
Review*, from
notes of
Mackintosh.]

is made he means to travel in Italy, in Switzerland, in Bavaria, even in Spain. This is to be done, that it may be believed in England that his choice of a residence is not dictated by a mere desire to be near his relatives, and to be close at hand should measures have to be taken on an emergency.'

After the communication of this statement to the Pretender he made repeated attempts to enter into correspondence with Queen ANNE. By OXFORD these attempts were uniformly and effectually foiled.

To the insincerity of OXFORD's advances—such as they were—to the Jacobite emissaries, there can be no witness more competent, none more unexceptionable, than the Duke of BERWICK. His testimony runs thus:—'We wrote,' he says, 'to all the Jacobites to support the government; a step which had no small share in giving to the Court party so large a majority in the House of Commons that it carried everything its own way. . . . After the Peace, the Treasurer spoke with not a whit more of clearness or precision than before it. . . . He was merely keeping us in play; and it was very difficult to find a remedy. To have broken with him would have spoiled all; for he had the reins in his hand. He governed the Queen at his will.' In all his advances, adds the Duke, in another passage, 'OXFORD's only motive had been to win over Jacobites to side with the Tories, and to get a sanction for the Peace.'

*Mémoires du
Maréchal Duc
de Berwick
(in Petitot's
Collection,
tom. lxxvi,
pp 219 seqq.)
It, pp. 224,
225.*

Original in
Surin MSS.,
vol. 4.
(M. S. 9890.
Original
Papers, vol. ii,
p. 269.)

Whilst these intrigues were still in action, one, at least, of the Jacobite agents was clear-sighted enough to detect the secret of the Treasurer's scheme. A confidential agent of the Earl of MIDDLETON, Secretary to the Pretender, wrote in February, 1712—'The Earl of OXFORD] is entirely a friend to [the Elector of HANOVER], notwithstanding the disobliging measures that spark has taken.

. . . [OXFORD'S] head is set on shewing that he is above resentment, and that he [the Elector] has been put into a wrong way.'

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In matters of Church policy at home the Earl followed like indirect courses, and with the like result—a momentary success which prepared the way for final defeat.

No measure could possibly be more repugnant to OXFORD'S declared convictions than the famous 'Bill against Occasional Conformity,' brought into the House of Lords by the Earl of NOTTINGHAM, at the close of the year 1711. It was part of a policy to which his very nature was antagonistic. But he was in vain entreated, by men who had been his life-long adherents, to oppose it. The passage of that Bill was the price, and, as it seems, the only price for which NOTTINGHAM and his band of followers would give their support to the foreign policy of the Government.

HARLEY'S
CONDUCT ON
THE CON-
FORMITY
BILL.

The growth of the internal dissensions in the administration kept pace with the growth of its external perils. Personal objects of the pettiest kind were made occasions of quarrel. In the summer of 1712, ST. JOHN, who had set his heart on the restoration in himself of that family Earldom of BOLINGBROKE which in the previous year had become extinct on the death of a distant relative, was made a Viscount. On the announcement of his creation he burst into open menaces of vengeance against the Treasurer, and renewed them with greater violence towards the close of the year, when he found himself excluded from another coveted dignity. An election of Knights of the Garter made, to use Lord OXFORD'S own words about it, 'a new disturbance which is too well remembered.' Just as the breach with BOLINGBROKE had become plainly irreconcilable, the Treasurer found a new and equally bitter enemy in another old friend. He defeated a rapacious attempt made by Lady

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MASHAM on the Treasury. The first offence in that kind would never have been forgiven. But ere long it was repeated.

In both Houses of Parliament, **OXFORD's** veiled and vacillating policy was fast alienating men who had long supported him, and who to the last retained more confidence in him than in his brilliant rival. The crisis, however, was brought about, not by the increased strength of Parliamentary opposition, but by bed-chamber intrigues, such as those which he had himself stooped to employ six years before against **GODOLPHIN** and **MARLBOROUGH**.

Meanwhile the Minister played into the hands of his opponents by exhibiting great irresolution. He dallied and procrastinated with urgent business. He relaxed in his attention to the Queen. At an unwary moment he even gave her personal offence, the results of which were none the less bitter for the absence of design. He showed more concern about comparatively distant perils than about those which were close at hand.

OXFORD's
CORRE-
SPONDENCE
WITH THE
COURT OF
HANOVER.

At the beginning of 1714 the best informed of the Jacobites had become fully convinced that **OXFORD** was their enemy. They saw, to repeat the words of the Duke of **BERWICK**, that he had been only keeping them in play. But at the Court of Hanover he was far from being regarded as an assured friend. Over-subtlety had been rewarded with almost universal distrust.

1714,
April.

When in April of that year he sent to Hanover renewed protestations of fidelity, expressed in terms of unusual energy, they were looked upon by some of the Elector's advisers as mere professions.* If now read side by side

* The original letters of the Elector to Harley are in Lansdowne MS. 1236, ff. 272-294. They range, in date, from 15 December, 1710, to 15 June, 1714. There also are several letters (in autograph) of the

with contemporary documents, drawn up by secret emissaries of the Pretender, they acquire a stamp of sincerity which it is hard to doubt.

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TO BARON WASSENAER DUYVENWORDE LORD OXFORD wrote thus:—‘I do in the most solemn manner assure you that, next to the Queen, I am entirely and unalterably devoted to the interests of His Electoral Highness of Hanover. I am ready to give him all the proofs of my attachment to his interest, and to set in a true light the state of this country; for it will be very unfortunate for so great a Prince to be only Prince over a party, which can never last long in England.’ He then goes on to add that the one thing which would, under existing circumstances, imperil the Hanover succession is the sending into England of any member of that family without the Queen’s consent. Such an act would, in his judgment, ‘change the dispute to the Crown and the Successor, whereas now it is between the House of Hanover and the Popish Pretender.’

He repeated the advice in another and not less urgent letter, after the occurrence of the visit made to the Lord Chancellor HARCOURT by the Hanoverian Resident, to ask for a writ of summons for the Duke of CAMBRIDGE. But he also advised Queen ANNE to consent to the issue of such a writ. He was opposed by a majority of his colleagues, under the leadership of BOLINGBROKE, as well as by the persistent unwillingness of the Queen herself.

Oxford to
Wassenaer;
MS. Sloane,
4107. (B. M.)

It is instructive to read the comments on the political situation in England at this moment, of a German diplo-

Electress Sophia. The earliest of these bears date 26 May, 1707. The latest is undated, but was written in May, 1714, very few days before the writer’s death.

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matist resident in London (as Minister from the Elector Palatine) who was devotedly attached to the Hanoverian succession.

‘Some people,’ wrote Baron von STEINGHENS to Count von der SCHULENBERG, on the 12th of May, ‘have been at work for a whole year to deprive the Lord Treasurer of the conduct of public affairs. I have been aware, almost from the beginning, of the different channels which have been made use of to carry this point. But I should never have expected that they would fire the mine before the end of this session, and I am much mistaken if the authors have not reason one day to regret their over-haste. For I do not know my man, if he does not cut out a good deal of work for them, particularly if a certain intrigue which is on the tapis succeeds. As for the rest, you may rely upon his sentiments; and he never succeeded in persuading those who doubted them more than by his declaration made in a full House on the 16th of last month on the question of danger to the Protestant succession, having in it given much greater hold upon himself than there was any need for, if he was not acting in good faith. . . . The party of the Hanoverian Tories has visibly been strengthened by it.’

Von Steing-
hens to
Count von
der Schu-
lenberg, May 12,
1714 (in
Kemble's
State Papers,
p. 493).

And to this the writer adds, in a postscript, ‘It is of extreme importance both for the Whigs and for the House of Hanover to take steps to keep him there, and to engage him by some sort of political confidence to be assured of his fortunes under that House.’ In another letter to the same correspondent, Baron von STEINGHENS notes a fact which by many of our historians has been too much neglected. ‘To make the English Ministry,’ he wrote, ‘alone responsible . . . for the exorbitant power which the Peace of Utrecht has given to France is . . . to ignore entirely the incredible obstacles which the enemies

Same to
same, June
14 (Kem-
ble, p. 567).

of that Ministry threw, both at home and abroad, in the way of making the Peace such as it might have been.'

But although 'the mine was fired' before the end of May, July had nearly ended before the effectual explosion came. BOLINGBROKE's triumph lasted exactly four days. 'The Earl of OXFORD was removed on Tuesday. The Queen died on Sunday. What a world is this! And how does Fortune banter us! . . . I have lost all by the death of the Queen, but my spirit.' Such were the words in which BOLINGBROKE announced to SWIFT his victory,—and its futility. In a few more days the spirit vanished, like the triumph. The victor was a fugitive.

BOLINGBROKE's hatred to OXFORD lasted to the close of his life. He survived his old comrade twenty-seven years. The final year of that long period brought no relenting thought, no spark of charitable feeling.

To the question 'Did Lord OXFORD, during his tenure of office, conspire to enthrone the Pretender?' it ought always to have been a sufficient answer that there was, as yet, not a tittle of *evidence* of any such conspiracy on his part. That accusation had never any support beyond surmise and conjecture. Men who were in possession of every imaginable resource and appliance to back their search failed to adduce even a shadow of evidence in proof of the charge they would fain have fastened upon him. And in 1869 the matter still stands, in the main, where it stood in 1717.

After many examinations of the most secret correspondence of the Stuarts and their adherents, and after the publishing of extensive selections from it—made at intervals which spread over eighty years,—not a scrap of direct and

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OXFORD'S
DISMISSAL
AND THE
QUEEN'S
DEATH.
1714,
July 27,
August 1.

DID OXFORD
CONSPIRE TO
BRING BACK
THE PRE-
TENDER?

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lection of
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vey MSS.

valid testimony has been found to sustain the charge. Every passage, save one, which bears at all on OXFORD's intercourse with Jacobite emissaries up to the year 1715, tends to show that what they asserted about his intentions on the Pretender's behalf was built on wishes, hopes, and guesses—on anything rather than knowledge. Every passage, save one, tends to show that he was using the Jacobites for his own purposes, without the least idea of aiding theirs. Every passage, save one, is in entire harmony with the terms of that incompatible charge by means of which BOLINGBROKE justified to himself his life-long hostility, when writing the *Letter to Sir William Wyndham*. The significance of that charge, coming from such a source, can scarcely be exaggerated. 'OXFORD would not,' wrote BOLINGBROKE, 'or he could not, act with us and be resolved that we should not act without him, as long as he could hinder it. . . . At the Queen's death, he hoped . . . to deliver us up, bound as it were, hand and foot, to our adversaries. On the foundation of this merit he flattered himself that he had gained some of the Whigs, and softened, at least, the rest of the party to him. By his secret negotiations at Hanover, he took it for granted that he was not only reconciled to that Court, but that he should, under his present Majesty's reign, have as much credit as he had enjoyed under that of the Queen.'

Bolingbroke,
Letter to Sir
W. Wyndham.

Gratifier to
De Torcy,
14 December,
1713
[Printed in
*Edinburgh Re-
view*, from
the Notes of
Sir James
Macintosh,
in vol. Ixii,
pp. 19, seq.]

The solitary passage in the correspondence of the Jacobite agents which goes directly to the issue is the assertion made by GAUTIER, in a letter to DE TORCY, that OXFORD said to him, in December, 1713, 'As long as I live, England shall not be governed by a German.' In that notable statement lies the pith of a mass of letters which report the hopes, beliefs, conjectures, and imaginings, of their respective writers, as to what Lord OXFORD would do for the Pre-

tender,—whenever that prince could be brought to change, or, at least, to disguise his religion.

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OXFORD was present, as a Privy Councillor, at the proclamation of King GEORGE THE FIRST. It was noted by some of the bystanders that his demeanour was buoyant and joyous. When the King reached Greenwich, the Earl went thither with more than usual pomp and retinue. He was received with marked coldness, if not with open contempt.

OXFORD'S
RECEPTION
BY GEORGE I.

There is little need, in a sketch of this kind, to tell, at length, the story of an impeachment which was stretched over two years, and had no result save that of breaking down, by two years of imprisonment, the health of the defeated statesman. Few and brief words on that head will suffice.

Out of twenty-two articles of impeachment, fourteen accuse the Earl of OXFORD of betrayal of duty, either in the conduct of the negotiations for Peace, or in instructions given for handling the British Army—pending those negotiations—in such a way as to injure the common cause of the Allies, by promoting the conclusion of a treaty 'on terms fatal to the interests of the Kingdom.' The fifteenth article charges him with inserting false statements in the Queen's Speeches and Messages to Parliament; the sixteenth with improperly advising the Queen to make a creation of Peers. Other articles allege misconduct in the management of an expedition to Canada; the appropriation of sums of 'Secret Service Money' to corrupt purposes; and treasonable intercourse with 'Irish Papists.'

HIS IM-
PEACHMENT.
1715-1717.

1715.
June 24.

State Trials,
vol. xv,
Coll. 1052,
seqq.

Whilst these charges were still in preparation the Venetian Resident in London wrote a despatch to his

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*Correspon-
dence of
Joseph
Querini ;
from extracts
by T. D.
Hardy, in
Report on
Archives of
Venice,
p. 98, 99.*

Senate in which we have an interesting glimpse, behind the curtain, at the process :—‘The Whigs,’ he says, ‘seek to annihilate the Tories utterly, and to place them under the yoke. They want to impeach even the Duke of SHREWSBURY.’ After enlarging on nascent dissensions amongst the Whigs themselves, as to the lengths to which they might safely carry their party resentments, he proceeds to assert that the more cautious men among them ‘have now, when it is well nigh too late, become aware that the Tory party, recently dominant, was a mixed party. Some were in favour of the Pretender ; some for the House of Hanover. Had His Majesty made this distinction on his accession to the Crown he would have excluded the former, but not the latter. By favouring the Whigs alone, he lost all the others at once.’ In brief, GEORGE THE FIRST had made himself exactly what OXFORD had warned him against becoming, the ‘King of a party.’

When the Earl at length appeared before his peers to answer to his impeachment, he began by denying ‘that at any time or place in the course of those negotiations,’ now incriminated, ‘he conferred unlawfully or without due authority with any emissaries of France.’ He affirmed that he neither promoted nor advised any private, separate, or unjustifiable negotiation, and that he himself had no knowledge ‘that any negotiation relating to Peace was carried on without communication to the Allies.’

On the specific charge that he had traitorously given up Tournay to France, his defence is twofold :—‘I used my best offices,’ he asserts, ‘to preserve that town and fortress to the States General. I believe that at this time they are continued to the States General as part of their barrier.’ And then he adds :—‘But I deny that for a Privy Councillor and Minister of State to advise the yielding of any town,

fort, or territory, upon the conclusion of a Peace, is, or can be, High Treason by any law of this realm.'

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On the whole matter of the Peace, he asserts that 'its terms and preliminaries were communicated to Parliament. They were agreed on with the concurrence of Parliament. The Definitive Treaty was afterwards approved of by both Houses. Solemn thanks were rendered to God for it in all our churches and also in the churches of the United Provinces. Her Majesty received upon its conclusion the hearty and unfeigned thanks of her people from all parts of her dominions.'

It might well have been thought that even in those evil days it would be difficult to induce a Committee of partisans to report to the House of Commons that 'large sums issued for the service of the war were received by the Earl of OXFORD, and applied to his Lordship's private use,' without the possession of some plausible show of proof. There was not so much as a decent presumption, or colourable inference, to back the assertion. When the matter came to be probed, it appeared that a royal gift of £13,000 had been received by the Earl in what were known as 'tin tallies,' and that the sum had been a charge upon the revenues of the Duchy of Cornwall.

State Trials,
vol. xv,
c. 1137 seqq.

Commons'
Journals,
9 June, 1715.

Probably few politicians have owed quite so large a debt of gratitude to their enemies as that incurred by the Earl of OXFORD. His ministry at home had been marked by weaknesses which went perilously near the edge of public calamity. The Peace which was its characteristic achievement abroad had brought with it many real blessings, but they were won at the cost of a large sacrifice of national pride, if not also by some sacrifice of national honour. The wild excesses of his adversaries now gave back to the obnoxious

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OXFORD'S
BEHAVIOUR
UNDER
TRIAL.

Swift's
Correspondence, in
Works, by
Scott, vol. xvi,
pp. 232, 233.

THE TRIAL.
1717, July.

Minister the strength of his best days. When POPE wrote of him, 'The utmost weight of ministerial power and popular hatred were almost worth bearing for the glory of so dauntless a conduct as he has shown under it,' the praise came from a pen which is known to have been employed, now and again, to flatter the great. But it was no flatterer who wrote to OXFORD himself—'Your intrepid behaviour under this prosecution astonishes every one but me, who know you so well, and how little it is in the power of human actions or events to discompose you. I have seen your Lordship labouring under great difficulties and exposed to great dangers, and overcoming both, by the providence of God, and your own wisdom and courage.' Those words came from one of the shrewdest and most acute observers of human character that have ever lived. They were written after a close and daily intimacy of four eventful years. OXFORD, in his day of power, had disappointed SWIFT of some cherished hopes, which now could never be renewed. The praise of SWIFT must have been sincere. When such a writer, at such a time, goes on to add—'You suffer for having preserved your country, and for having been the great instrument, under God, of his present Majesty's peaceable accession to the throne;—this I know, and this your enemies know'—the most prepossessed reader cannot but feel that the absence from the two and twenty articles of impeachment of any charge of plotting against the Hanover succession is alike intelligible and significant.

When Oxford's imprisonment could be no longer protracted without a trial, the two Houses of Parliament were unable to agree as to the mode of proceeding. It was obvious on all sides that the charge of 'treason' would fail. The Lords declared that on the articles imputing

treason judgment must be given, before the articles imputing 'other high crimes and misdemeanours' could be entered upon. They declared that the attempt of the Commons to mix up the two was 'a new and unjustifiable proceeding.' The Commons refused to adduce evidence on the charge of treason, and to take the issue upon that.

On the first of July, 1717, the Earl was brought to the bar to hear from the Lord High Steward a declaration that 'Robert, Earl of OXFORD, is, by the unanimous vote of all the Lords present, acquitted of the articles of impeachment exhibited against him, by the House of Commons, for High Treason and other high crimes and misdemeanours, and that the said impeachment shall be and is hereby dismissed.' Then the Steward said, 'Lieutenant of the Tower, You are now to discharge your prisoner.'

On the third of July, the Earl resumed his seat as a peer of Parliament. On the fourth, the Commons resolved to address the King, beseeching him 'to except Robert, Earl of OXFORD, out of the Act of Grace which Your Majesty has been graciously pleased to promise from the throne, to the end the Commons may be at liberty to proceed against the said Earl in a parliamentary way.' No such proceeding, of course, was taken or intended.

For several years to come Lord OXFORD took part, from time to time, in the business of Parliament. He served often on Committees in these final years of his public life, just as he had done during his early years of apprenticeship in the Lower House. In the Lords, as in the Commons, he was listened to with especial deference on points of parliamentary law and privilege.

From time to time, also, the Jacobite agitators, both at home and abroad, made repeated appeals to him, direct or

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Lords'
Journals,
vol. xx,
p. 515, seqq.
Commons'
Journals,
vol. xviii.

State Trials,
vol. xv, 1164,
seqq.

OXFORD'S
RETURN TO
THE HOUSE
OF LORDS.
1717,
July.

Journals,
vol. xviii,
p. 617.

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ALLEGED
RENEWAL OF
CORRE-
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indirect, for countenance and help in their schemes. They had, it seems, a confident hope that the sufferings and the humiliation inflicted on him in the years 1715-1717 must have so entirely alienated him from the reigning House, as now, at all events, to have prepared him to be really their fellow-conspirator, on the first occurrence of a promising opportunity. How far the Earl listened to such suggestions and persuasions is still, it will be seen, matter of great and curious uncertainty.*

DOMESTIC
LIFE OF
LORD
OXFORD.

Lord OXFORD's private life was not less chequered by rapid alternations of sunshine and of gloom than was his political career. In August, 1713, he gratified a cherished desire by the marriage of his son Edward, Lord HARLEY, with the Lady Henrietta CAVENDISH HOLLES, daughter and heiress of John, Duke of NEWCASTLE (who died in 1711). With what Lord HARLEY had already derived under the Duke's will, this marriage brought him an estate then worth sixteen thousand pounds a year, and destined to increase enormously in value. Three months afterwards the Earl lost a dearly loved daughter, the Marchioness of CAERMARTHEN, who died at the age of twenty-eight. It was of her that SWIFT wrote to him—'I have sat down to think of every amiable quality that could enter into the composition of a lady, and could not single out one which she did not possess in as high a perfection as human nature is capable of. But as to your Lordship's own particular, as it is an unconceivable misfortune to have lost such a daughter, so it is a possession which few can boast of to

* The chief passages in the Stuart Correspondence upon which a confident assertion has been based of his ultimate complicity in the Jacobite conspiracies are given, textually, in a note at the end of this chapter.

have had such a daughter. I have often said to your Lordship that "I never knew any one by many degrees so happy in their domestics as you;" and I affirm that you are so still, though not by so many degrees. . . . You began to be too happy for a mortal; much more happy than is usual with the dispensations of Providence long to continue.'

Under the sorrows both of public and of private life it was his wont to find a part of his habitual consolations in the use, as well as in the increase, of his splendid library. He began the work of collection in youth, and to add to his treasures was one of the matters which, at intervals, occupied his latest thoughts.

Among the famous Englishmen whose manuscripts passed, either wholly or partially, into the Harleian Library are to be counted Sir Thomas SMITH; John FOX, the martyrologist; John STOWE, the historian; Edward, Lord HERBERT of Cherbury; and Archbishop SANCROFT. Among famous foreigners, Augustus LOMENIE DE BRIENNE; Peter SÉGUIER, Chancellor of France; and Gerard John FOSSIUS. Perhaps the most extensive of the prior collections which it had absorbed, in mass, was the assemblage of manuscripts that had been gathered by Sir Symonds D'EWEES, whose acquisitions included a rich series of the materials of English history.

The inquiries which led to the purchase of the D'EWEES' collection were the occasion of making fully known to Robert HARLEY a model librarian in the person of Humphrey WANLEY. The latter portion of WANLEY's life was wholly devoted to the service of the Harleian Library, and his employment there was a felicity, both for him and for it. His journal of the incidents which occurred during the growth of the collection given to his care is the most curious

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Swift to
Oxford;
21 Nov., 1713.
(*Works*,
vol. xvi,
pp. 78-80.)

HISTORY OF
THE HAR-
LEIAN
LIBRARY.

HUMPHREY
WANLEY;
HIS LIFE,
LETTERS,
AND
JOURNAL.

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document in its kind which is known to exist. That journal illustrates the literary history and the manners of the time, not less amusingly than it exhibits the personal character of its writer, and the fidelity with which he worked at his task in life.

WANLEY was the son of a country parson, little known to fame, but possessing some tincture of learning, and was born at Coventry, on the 21st of March, 1673. In his youth he attracted the favourable notice of his father's diocesan, William LLOYD, Bishop of Lichfield and Coventry (and afterwards of Worcester), by whom he was sent to Edmund Hall at Oxford. That hall he soon exchanged for University College, on the persuasion of Dr. Arthur CHARLETT, by whose influence he was afterwards made an Underkeeper of the Bodleian Library. He took no degree, but won some distinction, whilst at Oxford, by the services which he rendered to Dr. MILL in collating the text of the New Testament.

On leaving the University, WANLEY went to London, where he became Secretary to the Society for the Propagation of Christian Knowledge. He translated OSTERSVALD'S *Grounds and Principles of the Christian Religion*; and compiled a valuable Catalogue of the Anglo-Saxon Manuscripts preserved in the chief libraries of Great Britain. The last-named labour gave proof of much ability. It was a sample of the work for which its writer was best fitted.

As Speaker of the House of Commons, HARLEY took a considerable part in organizing the Cottonian Library, when it became a public institution under the Act of Parliament. WANLEY proffered to the Speaker, on this occasion, some advice about the necessary arrangements; became well acquainted with HARLEY'S bookishness, and saw how eagerly he would welcome opportunities for the improve-

ment of his own library, as well as of that newly acquired by the Public.

The Sir Symonds D'EWEES of that generation was the grandson of the diligent antiquary and politician who has been heretofore mentioned in this volume as the close friend of Sir Robert COTTON, and to whose labours, in a twofold capacity, students of our history owe a far better acquaintance with parliamentary debates, in the times both of ELIZABETH and of CROMWELL, than, but for him, would have been possible. The grandson of the first Sir Symonds had inherited from his ancestor a valuable library; but its possession had no great charm for him. He was willing to part with it, for due consideration, yet aware that he was under an obligation, moral if not legal, not so to part with his books as to lead to their dispersion.

On that head, the original collector had thus expressed himself in his last Will:—"I bequeath to Adrian D'EWEES, my young son yet lying in the cradle, or to any other of my sons, hereafter to be born, who shall prove my heir (if God shall vouchsafe unto me a masculine heir by whom my surname and male line may be continued in the ages to come), my precious library, in which I have stored up, or divers years past, with great care, cost, and industry, divers originals and autographs, . . . and such [books] as are unprinted; and it is my inviolable injunction and behest that he keep it entire, and not sell, divide, or dissipate it. Neither would I have it locked up from furthering the public good, the advancing of which I have always endeavoured; but that all lovers of learning, of known virtue and integrity, might have access to it at reasonable times, so that they did give sufficient security to restore safely any original or autograph . . . borrowed out of the same, . . . without blotting, erasing, or defraying it. But

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if God hath decreed now at last to add an end to my family in the male line, His most holy and just will be done!’

In that case, the testator proceeds to declare, it is his desire that the library should pass to his daughter and her heirs, on like conditions as to its perpetual preservation, so ‘that not only all lovers of learning . . . may have access to it at seasonable times, but also that all collections which concern mine own family, or my wife’s, may freely be lent . . . to members thereof,’ &c. Then the testator adds—in relation to the last-named clause—an averment that he had ‘only sought after the very truth, as well in these things as in all other my elucubrations, whilst I searched amongst the King’s records or public offices.’

D’Ewes,
*Autobiogra-
phy*, in MS.
Harl. (B. M.)

WANLEY’S
ACCOUNT OF
THE ACQUI-
SITION OF
THE D’EWES
LIBRARY.

It having come to WANLEY’S knowledge or belief, in the year 1703, that possibly arrangements might be made to obtain this library, for the Public, from the then possessor, he wrote to HARLEY in these terms:—‘Sir Symonds D’Ewes being pleased to honour me with a peculiar kindness of esteem, I have taken the liberty of inquiring of him whether he will part with his library, and I find that he is not unwilling to do so. And that at a much easier rate than I could think for. I dare say that it would be a noble addition to the Cotton Library; perhaps the best that could be had anywhere at present. . . . If your Honour should judge it impracticable to persuade Her Majesty to buy them for the Cotton Library—in whose coffers such a sum as will buy them is scarcely conceivable—then, Sir, if you shall have a mind of them yourself I will take care that you shall have them cheaper than any other person whatsoever. I know that many have their eyes upon this collection.’ ‘I am desirous,’ he goes on to say, ‘to have this collection in town for the public good, and rather in a public place than in private hands; but, of all private

Wanley to
Harley;
MS. Laned.
841, fol. 63.
(B. M.)

gentlemen's studies, first in yours. I have not spoken to anybody as yet, nor will not till I have your answer, that you may not be forestalled.'

HARLEY welcomed the overture thus made to him, and WANLEY, on his behalf, entered upon a negotiation which ended in the eventual acquisition of the whole of the D'EWES Manuscripts for the Harleian Collection. Soon afterwards, WANLEY became its librarian.

In the course of this employment he watched diligently for other opportunities of a like sort; established an active correspondence with booksellers, both at home and abroad; and induced Lord OXFORD to send agents to the Continent to search for manuscripts. But the Earl had soon to meet an eager rival in the book-market, in the person of Lord SUNDERLAND, who in former years had been, by turns, his colleague and his opponent in the keener strife of politics. In their new rivalry, Lord SUNDERLAND had one considerable advantage. He cared little about money. If he succeeded in obtaining what he sought for, he rarely scrutinised the more or less of its cost. WANLEY was by nature a bargainer. He felt uneasy under the least suspicion that any bookseller or vendor was getting the better hand of him in a transaction. And he seems, in time, to have inoculated Lord OXFORD with a good deal of the same feeling. Some of the entries in his diary put this love of triking a good bargain in an amusing light.

Thus, for example, in telling of the acquisition of a valuable monastic chartulary which had belonged to the Bedford Library' at Cranfield, he writes thus:—'The said Chartulary is to be my Lord's, and he is to present to that library *St. Chrysostom's Works*, in Greek and Latin, printed at Paris, for which my Lord shall be registered a benefactor to the said library. Moreover, Mr. FRANK will

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Wanley's
Diary, vol. i,
pp. 13, 21.
1720,
February.

Ib., vol. ii,
f. 24.

Wanley's
Diary, vol. i,
f. 73, verso.
MS. Lansd.,
771. (B. M.)

send up a list of his out-of-course books, out of which my Lord may pick and choose any twenty of them gratis. . . I am also to advise that he is heartily willing and ready to serve his Lordship in any library matters ; . . particularly with [Sir John] OSBORNE of Chicksand Abbey, where most part of the old monastical library is said yet to remain.' And again, on another occasion :—' My Lord was pleased to tell me that Mr. GIBSON's last parcel of printed books were all his own as being gained into [the bargain with] the two last parcels of manuscripts bought of him.' GIBSON's protest that he was entitled to an additional thirty pounds was quite in vain.

Of the innumerable skirmishes between librarian and bookseller which WANLEY's pages record with loving detail, two passages may serve as sufficient samples :— ' VAN HOECK, a Dutchman,' he writes in 1722, ' brought to my Lord a small parcel of modern manuscripts, and their lowest prices,—which proved so abominably wicked that he was sent away with them immediately.' And, in February, 1723 :—' BOWYER, the bookseller, came intreating me to instruct him touching the prices of old editions, and of other rare and valuable books, pretending that thereby he should be the better able to bid for them ; but, as I rather suppose, to be better able to exact of gentlemen. I pleaded utter inexperience in the matter, and, without a quarrel, in my mind rejected this ridiculous attempt with the scorn it deserved. This may be a fresh instance of the truth of TULLIE's paradox, " that all fools are mad." '

In the year 1720, large additions were made, more especially to the historical treasures of the Harleian Library, by the purchase of manuscripts from the several collections of John WARBURTON (Somerset Herald), of Archdeacon BATTELY, and of Peter SÉGUIER (Chancellor of France). Another important accession came, in the same

year, by the bequest of Hugh THOMAS. In 1721 purchases were made from the several libraries of Thomas GREY, second Earl of STAMFORD; of Robert PAYNELL, of Belaugh, in Norfolk; and of John ROBARTES, first Earl of RADNOR.

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LECTOR OF
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LEIAN MSS.
Ibid., pp. 35,
42, 48.

Lord OXFORD died on the 21st May, 1724, at the age of sixty-three. WANLEY records the event in these words: It pleased God to call to His mercy Robert, Earl of OXFORD, the founder of this Library, who long had been to me a munificent patron.'

DEATH OF
LORD
OXFORD.

When condoling with the new Earl upon his father's death, SWIFT wrote to him:—'You no longer wanted his care and tenderness, . . . but his friendship and conversation you will ever want, because they are qualities so rare in the world, and in which he so much excelled all others. It has pleased me, in the midst of my grief, to hear that he preserved the greatness, the calmness, and intrepidity, of his mind to his last minutes; for it was fit that such a life should terminate with equal lustre to the whole progress of it.' It is honourable alike to the man who was thus generously spoken of, and to the friend who mourned his loss, that the testimony so borne was a consistent testimony. The failings of HARLEY were well known to SWIFT. In the days of prosperity they had been freely blamed; and now to face. When those days were gone, the good qualities only came to be dwelt upon. To the unforgiving enemy, as to the bereaved son, SWIFT wrote about the merits of the friend he had lost. 'I pass over that paraphrase of your letter,' said BOLINGBROKE, in reply, 'which is a kind of an elegy on a departed minister.'

Corresp.,
in *Works*,
vol. xvi,
p. 438.

When the Harleian Library was inherited by the second Earl of OXFORD (of this family) it included more than six

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INCREASE OF
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BRARY BY
EDWARD,
EARL OF
OXFORD.
1724—1741.

See MS.
Addit., 6338.
(B. M.)

thousand volumes of Manuscripts, in addition to about fourteen thousand five hundred charters and rolls. By him it was largely augmented in every department. He made his library most liberally accessible to scholars; and when, by a purchase made in Holland, he had acquired some leaves of one of the most precious biblical manuscripts in the world—leaves which had long before been stolen from the Royal Library at Paris—he sent them back to their proper repository in a manner so obliging as made it apparent that his sense of the duties of collectorship was as keen as was his sense of its delights. At his death, on the 16th of June, 1741, the volumes of manuscripts had increased to nearly eight thousand. The printed books were estimated at about fifty thousand volumes, exclusive of an unexampled series of pamphlets, amounting to nearly 400,000, and comprising, like the manuscripts, materials for our national history of inestimable value.

Johnson,
*Account of
the Harleian
Library;*
Works, vol. v,
p. 181.

The only daughter and heiress of the second Earl, Margaret, by her marriage with William, Duke of PORTLAND, carried her share in a remnant of the fortunes of the several families of CAVENDISH, HOLLES, and HARLEY, into the family of BENTINCK. The magnificent printed library which formed part of her inheritance was sold and dispersed. It was of that collection that JOHNSON said, 'It excels any library that was ever yet offered to sale in the value as well as in the number of the volumes which it contains.'

THE PUR-
CHASE OF
THE HAR-
LEIAN MSS.
FOR THE
NATION.

The Manuscripts were eventually purchased by Parliament for the sum of ten thousand pounds. With reference to this purchase the Duchess of PORTLAND wrote as follows, in April, 1753, to the Speaker of the House of Commons:—'As soon as I was acquainted with the proposal you had made in the House of Commons, in relation to my Father's Collection of Manuscripts I informed my

Mother [the then Dowager Countess of OXFORD] of it, who has given the Duke of PORTLAND and me full power to do therein as we shall think fit.

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‘Though I am told the expense of collecting them was immense, and that, if they were to be dispersed, they would probably sell for a great deal of money, yet, as a sum has been named, and as I know it was my Father’s and is my Mother’s intention that they should be kept together, I will not bargain with the Publick. I give you this trouble herefore to acquaint you that I am ready to accept of your proposal upon condition that this great and valuable Collection shall be kept together in a proper repository, as an addition to the Cotton Library, and be called by the name of the Harleian Collection of Manuscripts.

‘I hope you do me the justice to believe that I do not consider this as a sale for an adequate price. But your plea is so right, and so agreeable to what I know was my Father’s intention, that I have a particular satisfaction in contributing all I can to facilitate the success of it.’

Duchess of
Portland to
Arthur
Onslow;
MS. Addit.,
17521, f. 30.
(B. M.)

If it were possible to give, in few words, any adequate view of the obligations which English literature, and more especially English historical literature, owes to the Collectors of the Harleian Manuscripts, there could be no fitter conclusion to a biographical notice of Robert HARLEY. Here, however, no such estimate is practicable. Nor, in truth, can it be needed in order to convince the reader that ‘some tribute of veneration’—to use the apposite words which HENSON prefixed to the Harleian Catalogue—is due to the labour of the two HARLEYS for literature; and ‘to that generous and exalted curiosity which they gratified with incessant searches and immense expense; and to which they dedicated that time and that superfluity of fortune

which many others, of their rank, employ in the pursuit of contemptible amusements or the gratification of guilty passions.'

NOTE TO CHAPTER V.

*EXTRACTS FROM THE STUART PAPERS, REFERRING TO
INTERCOURSE OF ROBERT HARLEY, EARL OF OXFORD,
WITH THE JACOBITES, AFTER THE ACCESSION OF
GEORGE I.*

Edin Rev.
vol Ixii,
pp 18, 19.

1. [1717?] A document which, could it be recovered, would go far towards clearing up some of the uncertainties which exist as to Lord Oxford's intercourse with the Pretender and his agents, subsequently to the death of Queen Anne, was seen by Sir James Mackintosh among the Stuart Papers acquired by George the Fourth. It was afterwards vainly searched for by Lord Mahon, when engaged upon his *History of England, from the Peace of Utrecht*. It is still known only from the curmory notes made by Mackintosh, and referred to by a writer in the *Edinburgh Review* in these words: 'During Oxford's confinement in the Tower there is a communication from him to the Pretender, preserved among the Stuart Papers, offering his services and advice; recommending the Bishop of Rochester as the fittest person to manage the Jacobite affairs,—the writer himself being in custody; and adding that he should never have thought it safe 'to engage again with His Majesty if Bolingbroke himself had been still about him.'

*Monr/
Papers*, 1717.

2. 1717. September 29. Bishop ATTERBURY to Lord MAR:—
'Your accounts of what has been said here concerning some imaginary differences abroad have not so much foundation as you may suppose. At least, if they have, I am a stranger to it. . . . The result of any discourse I shall have with [the Earl of Oxford?] will be sure to reach you by his means. You will, I suppose, have a full account of affairs here from his and other hands.'

Ibid.

3. [1717?] The same to the same.
'Distances and other accidents have, for some years, interrupted my correspondence with [the Earl of Oxford?] but I am willing to renew it, and to enter into it upon a better foot than it has ever yet stood, being convinced that my so doing may be of no small consequence to the

service. I have already taken the first step towards it that is proper in our situation, and will pursue that by others as fast as I can have opportunity; hoping that the secret will be as inviolably kept on your side as it shall be on this, so far as the nature of such a transaction between two persons who must see one another sometimes can pass unobserved.'

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4. 1721. 'Among the same papers,' says the Reviewer quoted on the previous page, 'there is a letter from Mrs. Oglethorpe to the Pretender (Jan. 17, 1721), containing assurances from Lord Oxford of his eternal respect and good wishes, which from accidental circumstances he had been unable to convey in the usual manner.'

Edin. Rev.,
as before

5. 1722. April 14. THE PRETENDER [to Lord OXFORD?]

'If you have not heard sooner or oftener from me, it hath not, I can assure you, been my fault. Neither do I attribute to your's the long silence you have kept on your side, but to a chain of disappointments and difficulties which hath been also the only reason of my not finding all this while a method of conveying my thoughts to you, and receiving your advice, which I shall ever value as I ought, because I look upon you not only as an able lawyer but a sincere friend. This will, I hope, come soon to your hands, and the worthy friend by whose canal I send it will accompany it, by my directions, with all the lights and information he or I can give, and which it is therefore useless to repeat here.'

Stuart
Papers, 1722.

6. 1722. April 16. THE PRETENDER to ATTERBURY.

'I am sensible of the importance of secrecy in such an affair, yet I do not see how it will be possible to raise a sufficient sum, or to make a reasonable concert in England, without letting some more persons into the project. You on the place are best judge how these points are to be compassed, but I cannot but think that [the Earl of Oxford?] might be of great use on this occasion. [Lord Lansdowne?] is to write to him on the subject, and I am confident that if you two were to compare notes together you would be able to contrive and settle matters on a more sure and solid foundation than they have hitherto been.'

Ibid.

7. 1722. In a report made to the Earl of Mar by George Kelly, one of his emissaries employed in England, it is stated that on the delivery, by Kelly, of Mar's letter to Atterbury, the prelate asked the messenger if he had anything to say, in addition to the contents of the letter, and that he replied (in the jargon of his calling): 'It is a proposal for joining stocks with the Earl of Oxford, and taking the management of the Company's business into their hands.' Atterbury, according to this story, required a day's deliberation, and then told Kelly that he was resolved to join both heart and hand with the Earl; and not only so,

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but in the management and course of the business he would shew him all the deference and respect that was due to a person who had so justly filled the stations which he had been in.' The Bishop, says Kelly, also added that he was 'resolved to dedicate the remainder of his days to the King's service, and proposed, by this reunion, to repay some part of the personal debt which he owed to the Earl of Oxford, to whom he would immediately write upon this subject.' The messenger goes on to assure Lord Mar that Atterbury 'is entirely of your opinion that there is not much good to be expected from the present managers, and thinks it no great vanity to say that the Earl of Oxford and himself are the fittest persons for this purpose; but the chief success of their partnership will depend upon the secrecy of it.'

Ibid.

Of the genuineness of the several letters,—of the credit due to the emissaries and their reports, — even of the accurate identification, in some instances, of the 'Mr. Hackets,' 'Houghtons,' and numerous other pseudonyms, under which 'Lord Oxford' is assumed to be veiled, there are, as yet, no adequate means of judging.

CHAPTER VI.

THE FOUNDERS OF THE SLOANE MUSEUM.

..... 'He pry'd through Nature's store,
Whate'er she in th' ethereal round contains,
Whate'er she hides beneath her verdant floor,
The vegetable and the mineral reigns.
At times, he scan'd the globe,—those small domains
Where restless mortals such a turmoil keep,—
Its seas, its floods, its mountains, and its plains.'—
THOMSON.

Flemish Exiles in England.—The Adventures, Mercantile and Colonial Enterprises, and Vicissitudes of the COURTENS.—*William COURTEN and his Collections.—The Life and Travels of Sir Hans SLOANE—His acquisition of COURTEN'S Museum.—Its growth under the new Possessor.—History of the Sloane Museum and Library, and of their purchase by Parliament.*

THE history of the rise and growth of our English trade, in a conspicuous degree, a history of the immigration either of foreign refugees, and of what was achieved by their energy and industry, when put forth to the utmost under the stimulus and the stern discipline of adversity. Other countries, no doubt, have derived much profit from similar cause, but none, in Europe, to a like extent. By means almost all the chief countries of the Continent have sent us bands of exiles, who brought with them either special skill in manual arts and manufactures, or special

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capabilities for expanding our foreign commerce. To Flemish refugees, and more particularly to those of them who were driven hither by Spanish persecution in the sixteenth century, England owes a large debt in both respects. Our historians have given more prominence of late years to this chapter in the national annals than was ever given to it before, but there is no presumption in saying that not a little of what was achieved by exiles towards the industrial greatness of the nation has yet to be told.

Nor is it less evident that, over and above the political and public interest of the things done, or initiated, by the new comers in their adopted country, the personal and family annals of the exiles possess, in not a few instances, a remarkable though subsidiary interest of their own. In certain cases, to trace the fortunes of a refugee family, is at once to throw some gleams of light on obscure portions of our commercial history, and to tell a romantic story of real life.

IE
 URTENS;
 IER AD-
 INTURES
 ID ENTER-
 USES.

One such instance presents itself in the varied fortunes of the COURTENS. That family attained an unusual degree of commercial prosperity, and attained it with unusual rapidity. In the second generation it seemed—for a while—to have struck a deep root in our English soil. It owned lands in half-a-dozen English counties, and its alliance was sought by some of the greatest families in the kingdom. In the next generation its fortunes sank more rapidly than they had risen. In the fourth, the last of the COURTENS was for almost half his life a wanderer, living under a feigned name, and he continued so to live when at length enabled to return to his country. The true name had been preserved only in the records of interminable litigation—in England, Holland, India, and America—about the scattered

wreck of a magnificent property. But the enterprise of the family, in its palmy days, had planted for England a prosperous colony. It had opened new paths to commerce in the East Indies, as well as in the West. And its last survivor found a solace for many ruined hopes in the collection of treasures of science, art and literature, which came to be important enough to form no small contribution towards the eventual foundation of the British Museum.

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In 1567 William COURTEN, a thriving dealer in linens and silks, living at Menin in Flanders, was together with his wife, Margaret CASIER, accused of heresy. COURTEN was thrown into the prison of the Inquisition, but contrived both to make his escape into England, and to enable his wife soon to join him. He established himself in London, in the same business which had thriven with him at home. His wife shared in its toils, and by skilfully adapting her exertions to those tastes for finery in the families of rich citizens which were now striving with some success against the rigour of the old sumptuary laws made the business more prosperous than before. It expanded until the poor haberdasher of 1567 had become a notability on the London Exchange.

THE
FOUNDER OF
THE FAMILY.

Family
Records of
the Courtens;
in MS.
Sloane, 3615,
passim.
(B. M.)

In 1571 a son was born to the exiles. This second William COURTEN was bred as a merchant rather than as tradesman. He had good parts, and seems to have started into life with a passion for bold enterprise. His early training in London was continued at Haerlem, and here he laid a foundation for commercial success by marrying the daughter of Peter CROMMELINCK, a wealthy merchant. First and last, his wife brought him a dowry of 40,000, of which sum it was stipulated by the father's

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will that not less than one half should be laid out in the purchase of lands in England, to be settled on the eldest son that should be born of the marriage.

By the time of his attaining the age of five and thirty William COURTEN had already become—for that period—a great capitalist. He then, in 1606, established in London a commercial house which added to the ordinary business of merchants on the largest scale, that of marine insurers, and also that of adventurers in the whale fishery. His partners in the firm were his younger brother, Peter COURTEN, and John MOUNCEY. One half of the joint stock belonged to the founder; the other half was divided between the junior partners.

For nearly a quarter of a century this mercantile partnership prospered marvellously. Its annual returns are said to have averaged £200,000. It built more than twenty large ships, and kept in constant employment more than four hundred seamen and fishermen. The head of the firm gradually acquired a large landed property which included estates in the several counties of Worcester, Gloucester, Leicester, Nottingham, Essex, and Kent.

This great prosperity had, of course, its drawbacks. Amongst the earliest checks which are recorded to have befallen it was a Crown prosecution of COURTEN (in company with several other foreign merchants of note, among whom occur the names of BURLAMACHI, VANLORE, and DE QUESTER) on the frequent charge—so obnoxious to the political economy of that age—of ‘the unlawful exportation of gold.’ COURTEN was brought into the Star Chamber and was fined £20,000; a sum so enormous as to excite a suspicion of the accuracy of the record, but for its repeated entry. The prosecution was instituted in June, 1619; the defendant’s discharge bears date July, 1620. But it may

*Domestic
Corresp.*,
James I.,
vol. cix, § 90;
96; vol. cx,
§ 86; vol. cxl,
§ 66.
*Signs
Manual*,
vol. xii, § 26.
B. H.)

fairly be assumed that only a portion of the nominal fine was really exacted.

Another and much more serious check to the prosperity of the enterprising merchant came from his embarking in the grand but hazardous work of planting colonies.

In 1626, William COURTEN—then Sir William, having received the honour of knighthood at Greenwich, on the 31st of May, 1622—petitioned the King for ‘licence to make discoveries and plant colonies in that southern part of the world called *Terra Australis incognita*, with which the King’s subjects have as yet no trade,’ and his petition was granted. What ensued thereupon is thus told in an authoritative manuscript account preserved in the Sloane collection :—

‘ Sir William COURTEN being informed, by his correspondents in Zealand, that some Dutch men-of-war sent out upon private commission against the Spaniards had put into the island of Barbados, and found it uninhabited, and very fit for a plantation, did thereupon, at his own charge, set forth two ships provided with men, ammunition, and arms, and all kinds of necessaries for planting and fortifying the country, who landed and entered into possession of the same in the month of February, 1626 [1627, N.S]. . . Afterwards, in the same year, he sent Captain POWELL thither, with a further supply of servants and provisions, who, in 1627, fetched several Indians from the mainland, with divers sorts of seeds and roots, and agreed with them to instruct the English in planting cotton, tobacco, indigo, &c. Sir William COURTEN having, by his partners and servants, maintained the actual possession for the space of 20 years, and peopled the island with English, Indians, and others, to the number of eighteen hundred and fifty men, women, and children, thought fit to make use of the

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1626.
COLONIAL
ENTER-
PRISES OF
SIR WM.
COURTEN.

*Domestic
Corresp.*,
Charles I.,
vol. xiv, § 33.

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Earl of PEMBROKE's name in obtaining a patent particularly for Barbadoes, although he had before a general grant from the king to possess any land within a certain latitude, wherein this island was comprehended. His Majesty having thus granted, by his Letters Patent, dated 25 February, 1627 [1628, N.S.] the government of this island unto the Earl of PEMBROKE, in trust for Sir William COURTEN, with power to settle a colony according to the laws of England, Captain POWELL had a commission to continue there as Governor, in their behalf. The Earl of CARLISLE,' continues the MS. narrative, 'having, before this Patent to the Earl of PEMBROKE, procured a grant, dated 2nd July 1627, of all those islands lying within 10 and 20 degrees of latitude by the name of Carliola, or Carlisle Province, with all royalties, and jurisdictions, as amply as they were enjoyed by any Bishop of Durham, within his bishopric or county palatine, and having also got another patent, for the greater security of his title, dated 7th April 1628, sent one Henry HAWLEY with two ships, who, arriving there in 1629, invited the Governor on board, kept him prisoner, seized the forts, and carried away the factors and servants of Sir William COURTEN and the Earl of PEMBROKE. The authority of the Earl of CARLISLE being thus established was maintained.'

Ibid. Comp.
Despatches in
Colonial
Correspondence,
vol. v,
§§ 1, 9, 18,
101, seqq.

But it was only maintained after a long contest at the Council Board at home, which contest seems to have been largely influenced by the fluctuations of Court favour from time to time. A despatch in February, written in behalf of CARLISLE, is followed in April by another despatch written in behalf of PEMBROKE and COURTEN. The one fact that becomes consistently evident throughout the proceedings is that grants of this kind were made in the loosest fashion, and often in entire ignorance even of the geographical

positions of the countries given by them.* Indeed, the common course of procedure under the STUARTS, when a courtier had the happy thought of begging a territory in America, reminds one of those earlier days of the TUDORS, when a favoured suppliant sometimes obtained the grant of a monastery, or the lease of a broad episcopal estate, with hardly more trouble than it cost him to win a royal mile.

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To COURTEN and his colonists the issue of this quarrel about Barbadoes was very disastrous. To some of the latter it brought ruin. But to the founder himself a check on enterprise in one direction seems to have brought increased stimulus to new enterprise in another direction. He now embarked largely in adventures to the East Indies and to China. As usual, they were planned on a magnificent scale; excited great jealousy in the breasts of competitors; and were attended, in the long run, with very mixed results of good and ill.

Meanwhile, Sir William's growing wealth—greatly exaggerated by popular renown—and the conspicuous position into which his varied pursuits had brought him, led to plans of enterprise by others, and of quite another kind, at home. He had lost his first wife, and also his eldest son. He had married a second wife,—Hester TRYON, daughter of Peter TRYON. Only one son survived, but Sir William had three daughters, whose prospective charms attracted

* Thus, for example, at one stage of the proceedings before the Privy Council about Barbadoes, we find the Lord Keeper Coventry reporting the Board upon an order of reference: 'I am of opinion that Barbadoes is not one of the Caribbee Islands. . . . But . . . I am of opinion that the proof on Lord Carlisle's part that Barbadoes is intended to be passed in his Patent is very strong.'—*Colonial Papers*, April 18, 1629, vol. v, § 11. See also The King to Wolverton, § 13.

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ALLIANCES
BETWEEN
THE CITY
AND THE
COURT.

James I to
Sir Willm.
Courten;
Dom. Corr.,
vol. cxxii,
§ 71.

many suitors. In September, 1624, King JAMES wrote a characteristic letter in which he assured COURTEN that the son of Sir Robert FLEETWOOD, Lord of the Scottish barony of Newton, would make a fit match for one of the three daughters, and that the conclusion of such a match would be very acceptable to the King himself. The pretendant would gladly, and impartially, wed any one of the three ladies, but the King himself, continues the royal letter, 'will regard, as a favour, any increase of portion given to the daughter whom FLEETWOOD may marry, over and above the portion given to, or intended for, the other daughters.'

But despite so powerful a recommendation the young Baron of NEWTON failed in his suit. Among the aspirants with whom he stood in competition were men much higher in social position. Eventually, the eldest daughter married Sir Edward LYTTETON of Staffordshire. The second daughter married Henry GREY, eighth Earl of Kent, of that family. And the third married Sir Richard KNIGHTLEY of Fawsley.

Royal commendations of suitors were sure, in that age, not to be the only sample of royal letters—direct and indirect—with which a man in Sir William COURTEN's position became familiar. He was favoured with not a few solicitations for advances of money on privy-seals, and in other forms of 'loan.' Sometimes he complies. Sometimes he remonstrates by specifying the large sums he contributes to the revenue in the way of custom's duties, and the entire incapability thence arising of the desired response to privy-seals and the like documents. His loans, however, to JAMES, and to CHARLES, amounted to no less a sum than £27,000.

COMMERCIAL
COMPLICA-
TIONS IN
HOLLAND.

The death in 1625 of his brother, Sir Peter COURTEN,

deprived the firm of its efficient representative in Holland, and laid a foundation for great misfortunes by putting in his place an unworthy successor. The partner resident at Middleburgh had the trust both of a large portion of the capital of the Company, and of the chief share of its accounting.

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Peter BOUDAEN was a nephew of the COURTENS, and had been to some extent admitted as a partner. His uncle Peter made him also his executor. He thus acquired a great control over the continental affairs of the house, just at the time when its transactions were expanding in all directions. He proved unfaithful to his trust, applied his large local influence to his personal advantage and to the prejudice of his partners; and at length failed altogether to render due accounts to the two partners in England. COUNCEY, the junior of these, went to Holland in order to enforce an adjustment. He had hardly entered on his task when he died, after a very brief illness, in BOUDAEN'S house at Middleburgh. BOUDAEN made a Will for him; asserted that the testator had executed it, in due form of law, immediately before his death; and found means to get the document sanctioned by the Dutch courts, in the face of strong opposition and of strong presumptive evidence of fraud.

1631.

Sir William COURTEN, meanwhile, prosecuted with his characteristic vigour his vast enterprises already established; made new and large ventures in the reclaiming of waste lands in England; and established the 'Fishery Association of Great Britain and Ireland,' with a view to the rescue from the Dutch of that productive herring fishery on our own coasts, which the growing supineness of English governments during at least two generations had permitted to become almost a monopoly in their hands.

ESTABLISH-
MENT BY SIR
W. COURTEN
OF THE
BRITISH
FISHERY
ASSOCIA-
TION.

Domest.
Corresp.,
Charles I.,
vol. cclxxxvii,
§ 57; vol.
cccii, § 75;
cccxi, § 16;
cccxvii, § 75.

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Of this Association COURTEN, during the closing years of his life, was the mainspring.

The Dutch, as was natural, strove vigorously to retain the advantage they had acquired, and were little scrupulous about the means of opposition. English herring busses were occasionally captured. And the captors had the great incidental advantage in the strife of dealing with a Government already weak at home, and yearly losing ground.

THE TRADE
WITH INDIA.

*Domestic
Corresp.*,
Charles I,
vol. cccxxiii,
p. 58; vol.
cccxlvi, § 19.

The East Indian adventures were, at length, attended by circumstances still more complex than those pertaining to the fishery business at home, or to the trading in Holland. For, in the former, English rivalry had to be encountered, as well as Dutch rivalry. And the rivalry took such a shape as to make the carrying on of trade extremely like the carrying on of war. But, as if the care of these varied interests, in addition to all the toils and anxieties of ordinary commerce on an extraordinary scale, were all too little to occupy the mind of a man who had now reached his sixty-sixth year, we find Sir William COURTEN taking, just at the close of life, a new and leading part in the business of redeeming captives who had been taken by the pirates of Morocco and Algiers. Nor was this merely an affair of the provision of money and the conduct of correspondence. It involved an intimate acquaintance with the circumstances and the needs of the Barbary States, being carried on, in part, on the principle of barter.

*Domestic
Corresp.*,
Charles I,
vol. cccxv,
§ 16; vol.
cccxlvi, § 82.

But all these far-spread activities were now fast approaching their natural close. COURTEN's career had been, as a whole, wonderfully prosperous, until very near its close. Already it contained, indeed, the germ of a series of reverses, hardly less remarkable; but the growth of that germ was to depend on the as yet unseen course of public

events. His ambition to 'found a family' had also been gratified by the marriage of his only surviving son*—William COURTEN, third of his name—with the Lady Katherine EGERTON, daughter of John EGERTON, Earl of Bridgewater. On that son and his heirs, Sir William COURTEN settled landed estates amounting to nearly seven thousand pounds a year.

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*Courten
Papers*, in
MS. Sloane,
3515.

Sir William COURTEN died in June, 1636. The commercial enterprises of all kinds which were in full activity at the time of his death were continued by his son, who inherited large claims, large responsibilities, and large perils. And it was of the perils that—after his succession—he had earliest experience.

Just before the father's death, a complaint had been made to the Privy Council that certain ships which he had sent to Surat and other places had committed acts of piracy near the mouth of the Red Sea.' It appeared afterwards that the ships which had given cause, or pretext, of complaint were not COURTEN's ships, but the accusation entailed trouble, and was, to the heir, the beginning of troubles to come. The opposition of the East India Company to the Indian trading of 'interlopers' (as they were called already) was unremitting and bitter. In June, 1637, William COURTEN, with a view to arm himself for the encounter, obtained from the Crown letters patent which empowered himself and his associates to trade with all parts of the East, 'wheresoever the East India Company had not settled factories or trade before the twelfth day of December, 1635.' One of his chief

THE THIRD
WILLIAM
COURTEN.

*Domestic
Corresp.*,
Charles I.,
vol. cccxliii,
§ 19.

*Courten
Papers*, in
MS. Sloane,
3515, p. 38.

* His eldest son, Peter Courten, had married a daughter of Lord Sanhope of Harrington, and died without issue. Sir William Courten bought the widow's jointure of £1200 a year by the present payment of £10,000, according to a statement in MS. Sloane, 3515.

I L associates under the new grant was Endymion PORTER, and
 L VI it appears that it was partly by PORTER's influence at
 COURTEN Court that the grant had been procured.

COURTEN Renewed activity was now shown in prosecuting the
 RE Eastern trade ; new and large ventures were made in it.
 L C W On some occasions as many as seven well-appointed ships
 were sent out by COURTEN and his associates at one time.
 Instructions are still extant which were given to the chief
 agents, supercargoes, and factors, for the settlement of
 English factories at many important places where none had
 heretofore existed. They are marked by great sagacity
 and breadth of view, and, in several points, contrast
 advantageously with contemporary documents of a like kind.

THE BY The enterprise was pursued, as it seems, with satisfac-
 INTCM tory results until the year 1643, when, in the Straits of
 RE Malacca, two richly-laden vessels of the COURTEN fleet were
 A seized by the Dutch. Subsequent proceedings show that
 CRANZA the value of the ships and their cargoes, with the contingent
 HENRY losses, exceeded £150,000. Along with this severe blow
 ADVEN. came the interruptions and injuries to trade at home, which
 E IN THE were the inevitable accompaniment of the Civil War.
 IAN Soon after it, there came indications that the loss to Sir
 D. William COURTEN's representatives by the misconduct of
 Peter BOUDAEN at Middleburgh would but too probably
 prove to be a loss without present remedy. It appears to
 have been established by the evidence adduced in the
 course of the almost interminable litigation which ensued
 that there was due from BOUDAEN to his partners a sum of
 £122,000 ; none of which, it may be added, seems ever to
 have been recovered. And the debt which had been con-
 tracted by JAMES THE FIRST and his successor, though
 less grievous in amount, was at this time even more
 hopeless.

Under the pressure of such a combination of misfortunes, William COURTEN found himself practically and suddenly insolvent. He met some of the most pressing claims upon him by the sale of available portions of his landed property. He assigned other portions of his estates to trustees, and became himself an exile. He survived the ruin of the brilliant hopes and expectations to which he had been born about ten years; dying at Florence in the year 1655. He left, by his marriage with Lady Katherine EGERTON, one son and one daughter.

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The fourth William COURTEN was born in London on the 28th March, 1642. He was baptized at St. Gabriel church, on the 31st of that month. The downfall of his family was therefore very nearly contemporaneous with his own birth, and makes it explicable that no record can now be found of the places of his education, or of the course of his early years. But the first trace which occurs of him is in exact harmony with the one fact which makes his existence memorable to his countrymen. He appears, at the age of fourteen, in the list of benefactors to the Tradescant Museum, at Lambeth, a collection which afterwards became the basis of the Ashendean Museum at Oxford.

WILLIAM
COURTEN,
FOUNDER
OF THE
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MUSEUM.

*Museum
Tradescan-
tianum,*
(1656).

The Tradescants—father and son—hold a conspicuous place in the history of Botanical Science in England, and they are especially notable as the founders of the first 'Museum,' worthy of the name, which was established in this country. The next collection of note, after theirs, was that formed by Robert HUBERT, in his house near St. Paul's Cathedral. Other collectors—as for example, John CONYERS and Dr. John WOODWARD—soon followed the example. But in this path all of them were far outstripped

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by COURTEN, who had marked his early bias, and also his characteristic liberality, by his gift to the TRADESCANTS in 1656.

Part of COURTEN's youth was passed at Montpelier, where he formed the acquaintance of several men then, or afterwards, famous for their scientific acquirements. Amongst them, and with the local advantages for the study of the natural sciences, in particular, for the possession of which Montpelier was already noted, his tastes for observation and study were developed, and his character took the ply which soon became indelible.

If he ever possessed any share at all of the qualities and predispositions for mercantile adventure, which had marked so many generations of his ancestors on the father's side, that share was far too weak an element in his composition to resist the discouragements of adverse circumstances. But as he attained manhood, he found himself immersed—unwittingly in part—in a sea of litigation which boded ill to his prospective enjoyment of leisure for scientific studies, whatever might prove to be its ultimate results upon his worldly fortunes.

THE SUITS
AND CLAIMS
INSTITUTED
BY GEORGE
CAREW, ON
BEHALF OF
COURTEN
AND OF THE
CREDITORS.

Some of the later enterprises of Sir William COURTEN had been carried on in conjunction with another famous merchant, Sir Paul PINDAR, who like himself was a large creditor of the Crown. The administration of PINDAR's estate had fallen into the hands of a certain George CAREW, who seems to have imagined that the restoration of royal authority in England would bring with it opportunities, to an energetic man, of winning a new fortune out of the remnants of the old fortunes which the fall of royalty had helped to ruin. Just before CHARLES THE SECOND came back, this man busied himself in buying up claims against COURTEN's estate as well as claims against PINDAR's. He

*Courten
Papers*, in
MSS. Sloane,
3515; 3961;
and 3962.

had a stock of energy. He had also the prospect of acquiring a good standpoint at Court, in addition to his present possession of a good training in the mysteries of English law. He was ready to devote all his energies to the business, and to encounter at once with the Dutch East India Company, the Dutch Republic, the Government of Barbadoes, and a host of adversaries at home.

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There had, however, been no Commission of Bankruptcy. It was necessary that the battle should be fought as well in the name of the heir and representative of the family, as in the name of the collective body of creditors. CAREW used COURTEN's name and used it, as it appears, for some years without authority from the legal guardian. COURTEN himself did not become of age until 1663.

The Restoration was hardly effected before CAREW beset the King and the Courts with Petitions, Memorials, claims, and Bills of Complaint. He would lose nothing for lack of asking. And he was undeterred by difficulties or rebuffs.

The case of Barbadoes was thus put before the Committee of the Privy Council for America :—

THE BARBADOES CLAIM.

'COURTEN claims the whole island of Barbadoes; and, more particularly, the Corn Plantation, the Indian Bridge Plantation, the Fort Plantation, the Indian Plantation eastwards, and Powell's plantation. Sir William COURTEN's ships covered the island in the year 1626, and left fifty people there. Captain Henry POWELL landed there in February, 1627, built [houses] for COURTEN's colony, and left more than forty inhabitants there. John POWELL erected Plantation Fort, and remained until he was surprised in 1628 by a force under Charles WOLVERTON, by which the fort was captured. In 1629, Sir William COURTEN sent eighty men with arms, in the 'Peter and John,' and they retook

Colonial
Correspondence, vol. xiv,
pp 37, 39 42.

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the fort in the name of the Earl of PEMBROKE, Trustee for COURTEN, according to the royal grant.' And then the Petition recites the recapture, under the conflicting Patent of the Earl of Carlisle, as I have described it already.

There is, of course, no foundation for the statement that Barbadoes was 'discovered' by the ships of COURTEN. In other respects, the details here set forth appear to be sustained by the evidence.

*Domestic
Corresp.,
Charles II.,
vol. xx, § 77;
and xlviii,
§ 48.*

In order to the recovery of the debt from the Crown, CAREW suggested, in another petition, and quite in the fashion of the day, that the Petitioners should have 'leave to raise the money' due to the COURTEN Estate from the estates of John LISLE, Thomas SCOTT, Thomas ANDREWS, and others, concerned in the murder of the late King. In a third petition, he prayed that 'a blank warrant for the dignity of a baronet' might be granted, in order to sell it to the best bidder, and to apply the proceeds in partial satisfaction of the debt.

THE CASE OF
THE EAST
INDIA SHIPS.

But it was to the prosecution of the claim upon the Dutch Republic for the unwarranted seizure, in 1643, of the rich ships of the East India Fleet that CAREW devoted his best energies. The damages were put at £163,400. The main facts of the case were fully substantiated. And a royal letter was addressed to the States General on the 21st of March, 1662, claiming full satisfaction.

A Memorial was delivered at the Hague in the April following, by the English Ambassador, Sir George DOWNING, in which, after a general statement of the case at issue, he went on to say: 'Whereas it may seem strange that this matter may be set on foot at this time, whereas in the year 1654 Commissioners were sent to England who did end several matters relating to the East Indies, and whereas in the year 1659 several matters of a fresher date were also

ended, and thereby a period put to all other matters of difference which had happened about the same time, and were known in Europe before the 20th of January in the same year, it is to be considered that the persons interested in these ships were such as, for their singular and extraordinary activity to His Majesty, . . . father to the King my master, were rendered incapable of obtaining or pursuing their just rights, at home or abroad. And upon that account it is that the business of the two ships remains yet in dispute, though several matters of a much fresher date have been ended.'

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*Memorial
delivered to
the States
General, at
the Hague,
19 April, 1663.*

When these proceedings were initiated by Sir George Downing at the Hague, COURTEN himself was still in his minority. But it is probable that he had already returned to England.

COURTEN's first personal appearance upon the scene was so made in the way of presenting a petition to the King. On 1 July 1663, he thus alleged that the steps which had been taken were without his concurrence or knowledge, and, as is feared, with intention to deprive him of his rights.' The King referred the petition to Sir Geoffrey ALMER, who pronounced in COURTEN's favour.

MS. Sloane,
3515.

His position was one of great embarrassment. Some of his family connexions had already suffered much annoyance from litigation about the COURTEN Estates at home, and were little inclined to incur further risk or trouble on behalf of a relative whose inheritance was certain to yield abundance of immediate vexation and anxiety, and very uncertain in respect to its prospects of any better harvest in the end. He was advised to sell the remnant of his entailed estates, to put the product of the sale out of danger from any adverse issue of pending claims, and to come to terms

THE
AGREEMENT
BETWEEN
COURTEN
AND CAREW.
1663.

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with CAREW for the prosecution of the latter—or of some of them—on a joint account. In accordance with this advice, an agreement was made, in the course of 1663, by which CAREW was empowered to pursue the claims against the Netherlands, as well on COURTEN's behalf as on his own and that of other creditors. The remaining landed estates in Worcestershire and other counties—or nearly all that remained of them—were sold, and a life income was secured.

For the next half dozen years COURTEN's life was almost that of a recluse, save that such activities as it admitted of were devoted almost exclusively to the study of antiquities and of the natural sciences. A great part of those years was passed at Fawsley with his aunt, Lady KNIGHTLEY, one of the few relatives whose affection stood the proof of adversity.

There are several reasons for thinking that the rudimentary foundation of COURTEN's Museum had been laid as early as in the time of his grandfather, Sir William, whose mercantile and colonial enterprises presented so many opportunities for bringing into England the more curious productions of remote countries, as well as their merchandise. Be that as it may, the collection of a museum which should eclipse everything of its kind theretofore known in England became, from his attainment of manhood, the leading aim and object of William COURTEN's career. It was to him both an ambition and a solace.

*relentien
 gens d'Oost-
 indische Com-
 pagnie, &c.
 S. M.)*

The other of the two men who thus came into brief contact in 1663 lived a life as different from COURTEN's as can well be conceived. CAREW seems to have been a glutton in his appetite for contention. And the Dutchmen, as far as they were concerned, put no stint upon its indulgence. There was also ample time for it. Treaty followed by war,

and war leading to renewed treaty, kept the affair of the *Bona Esperanza* and the *Henry Bon-Adventure* both in active historical memory, and in full legal vigour. Towards the close of 1662 it had been covenanted by the English government, as a necessary condition of a good understanding between the two Powers, that there should be a prompt satisfaction of damages. The Treaty of Commerce of that year was tossed to and fro on that one point of the COURTEN ships with more obstinate pertinacity than on any other. To the intrinsic merits of the claim, in the main, there was really no answer. To the legal technicalities by which its settlement, if left to Dutch courts of judicature, could be indefinitely protracted, there was no end. When matters of dismissal had been already drawn at Whitehall or the Dutch envoys of 1662, because they insisted on a clause extinguishing all outstanding claims on both sides; they skilfully contrived to substitute leave to litigate* for proviso to satisfy. And the event justified their forecast.

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THE CLAIMS
IN HOLLAND.

During the year 1665, Letters of Marque and Reprisal were granted to CAREW and his associates, and a special clause of continuance until the full recovery of debt and damages,† notwithstanding the conclusion of any subsequent Treaty of Peace was inserted. This was done after an elaborate argument before the Lord Chancellor CLAREN-TON. Several ships were taken by CAREW's cruisers, but they were nearly all claimed by Hamburghers, Swedes, and

*Domestic
Corresp.*,
Charles II,
vol. cxiii,
§ 143.

* 'Hoc excepto quod scilicet qui se jacturam passos dicunt in duabus rebus . . . poterunt litem inceptam prosecui.'—*Treaty of Commerce* 1662.

† After elaborate inquiries in the Admiralty Court the losses were estimated as amounting to £151,612; and that assessment was adopted in subsequent Commission under the Great Seal.

OK I,
p. VI.
t
INDERS
THE
AND
SEUM.

others. And at length the cost of the reprisals exceeded their yield.

In this case, and throughout it, as in so many other and graver cases, the policy of CHARLES THE SECOND's ministers was a policy of the passing exigence. Principle had always to vail to expediency. The Dutch were permitted, after all, to insert their favorite extinction clause in the Treaty of Breda (21 July, 1667). Five years later, the Privy Council advised the King that 'it is just and reasonable for your Majesty to insist upon reparation for the debt and damages' sustained by the seizure, in 1643, of the *Bona Esperanza* and her consort. New Letters of Marque led to the capture of more vessels, duly provided with a diversity of flag; and to the imprisonment, in England, of the captors, before trial or inquiry. Meanwhile, CAREW himself was seized abroad, and put into a Dutch prison. And, at length, in 1676, the States of Holland sent express orders to their courts of judicature, directing that 'no further progress shall be made in the pending suits,' grounding the order upon the proviso in the treaty of 1667, as extinctive of all claims and pretensions, whatsoever, advanced by Englishmen against Dutch citizens, be the foundation and history of such claims what they might. This decree, therefore, operated in bar, as well of the claims of the representatives of Sir William COURTEN, for the debt of Peter BOUDAEN, as of those arising out of the seizure of the ships of the East India Fleet. It was estimated that the COURTEN claims then pending in the Courts of Holland amounted, in the aggregate, to £380,000 sterling.*

orten
vers, in
Sloane,
6.

In May, 1683, a petition was presented to the English government, in which humble prayer was made that that

* This, of course, is the statement, *ex parte*, of the claimants.

government would be graciously pleased 'to perpetuate the memory of Sir William COURTEN and of Sir Paul PINDAR, by setting up their statues in marble under the piazzas of the Royal Exchange—Sir William COURTEN's at the end of the "Barbadoes walk" at the one side, and Sir Paul PINDAR's at the end of the "Turkey walk" of the other side—for encouragement to all merchants, in future ages, to take examples by them for loyalty and fidelity to their King and country.'

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For Veritatis,
1683. (B. M.)

COURTEN did his best to avoid any personal share in those unceasing turmoils, and to keep in the quiet paths of a studious retirement. But he presently found that, in order to secure his end, he must needs do as his father had done before him. He must leave England, either for Italy or for France. When his mind was made up to exile, it was also made up to the relinquishment of his name. William COURTEN became, even to his nearest relatives, 'William CHARLETON.'

COURTEN'S
SECOND
VISIT TO
FRANCE,
AND HIS
TRAVELS.

The friendships he had already formed at Montpellier, in his youth, and the local charms of that city for a studious man, incited him to revisit his old retreat. But he made no permanent abode there. He took long tours, in France, in Germany, and in Italy; adding everywhere both to the stores of his knowledge and to the presses and cabinets of his library and museum. It was during his second stay at Montpellier that he formed his life-long friendships with a famous Frenchman, Joseph PITTON DE TOURNEFORT, and with a more famous Englishman, John LOCKE. Here also began his acquaintance with Dr. (afterwards Sir) Hans SLOANE.

It was at SLOANE's instance that he made his solitary

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Philosoph.
Transact.,
vol. xxvii,
pp. 486, seqq.

appearance as an author, in the shape of a communication to the Royal Society, which was laid before them in 1679, and afterwards printed in the *Philosophical Transactions*, under the title: *Experiments and Observations of the Effects of several sorts of Poisons upon Animals, made at Montpellier.*

Thirteen or fourteen years were thus passed. And then, to the natural yearning of an exile, there came the strong reinforcement of the call of large collections for a settled abode. There are few claims to fixity of tenure better grounded than are those of a Museum or a Library.

RETURN TO
ENGLAND.

The return was not easy, but the difficulties were faced. It is probable that he came back to England in the summer of 1684. He did not then own one acre of that land of which his father had inherited so respectable a breadth in half a dozen counties. He had not long arrived before one of his nearest friends wrote him a letter, which seemed to bode ill for his prospects of a peaceable life. 'The number of creditors,' wrote Richard SALWEY to him, on the 18th August, 1684, 'is incredible, for the debts are standing, and multiplied to children and grandchildren, who, so long as the parchment and the wax can be preserved, will not forego their hopes nor attempts. And I fear your late so public station* will daily expose you, and that you will at every backstairs and turning be pulled by the sleeve and provoked. Nor yet do I know of any danger consequent in any suit that can be commenced, except putting you to great trouble and like expenses;—and I fear you have not a superfluous bank to defray the charge.'

Salwey to
'Charlton';
MS. Sloane,
3962, f. 191.

* This allusion I am unable to explain. It is quite an exceptional phrase in the Courten correspondence. But, possibly, 'station' may be understood as meaning merely place of residence.

COURTEN, however, was not seriously molested. He established himself in London as the occupant of a large suite of chambers in Essex Court, Middle Temple. Here his collections were conveniently arranged, and they had space to expand. Ere long we find mention of his Museum as filling ten rooms.

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Of the cost at which it had been gathered, there are now no adequate and authenticated materials for forming an estimate. But in those days the man who himself travelled on such a quest had a vast advantage over the man—however better provided with what in the sixteenth century was called purse-ability—who sent other men to travel in his stead. In COURTEN's days no dealers explored the Continent as an ordinary incident of their calling. The reck, too, of such a fortune as that of the COURTENS was not contemptible. When living in France (1677-79) our collector appears to have had an income of about fifteen hundred pounds a year, accruing from money invested in mortgages and in annuities.

*Courten
Papers*, in
MS. Sloane,
3962; 303.

Although his chief collections were of his own gathering, he had many helpers. Among them was the future inheritor of his Museum, Hans SLOANE. In the year 1687, when about to set out on his voyage to the West Indies, SLOANE wrote to him: 'I design to send you what is curious from the several islands we land at,—which will be most of our plantations.' The writer was then a young man. Probably his acquaintance with COURTEN was at that time not greater standing than eight or nine years, but he owes of the obligations COURTEN had then already conferred upon him: 'I am extremely obliged to you, beyond any in the world.'

Sloane to
'Charlton';
Ib., 308.

Ibid.

The use this Collector made of his treasures was as liberal as the zeal with which he had amassed them was indefati-

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gable. 'The friend whose correspondence has just been quoted said, after COURTEN's death, that he was wont to show his Museum very freely, and to make his stores contribute, in various ways, 'to the advancement of the glory of God, the honour and renown of the country, and the no small promotion of knowledge and the useful arts.'

Many notices are extant—scattered here and there in the *Diaries* and among the correspondence of the day—of visits made to COURTEN's Museum by men who were able to judge of what they saw. Those notices confirm the general statement made by SLOANE, and show the comprehensive-ness of the collector's tastes as well as the geniality of his character. Two such notices have an especial interest, which is not lessened by the fact that both of them are to be found in diaries that are well known. They record the visits to Essex Court of JOHN EVELYN, and of John THORESBY.

EVELYN'S
VISIT TO
COURTEN'S
MUSEUM.

EVELYN paid his first visit in charming company. It was made in December, 1686. He thus tells of it in his journal: 'I carried the Countess of SUNDERLAND to see the rarities of one Mr. CHARLTON, in the Middle Temple, who showed us such a collection as I had never seen in all my travels abroad—either of private gentlemen, or of princes. It consisted of miniatures, drawings, shells, insects, medals, . . . minerals; all being very perfect and rare of their kind; especially his books of birds, fishes, flowers, and shells, drawn and miniatures to the life. He told us that one book stood him in three hundred pounds. It was painted by that excellent workman whom the late GASTON, Duke of Orleans, employed.* This gentleman's whole collection, gathered by himself [while] travelling over most parts of

Diary, &c.,
vol. ii, p. 260.
(Edit. of
1854.)

* This volume undoubtedly passed into the Sloane Collection, but is not so described as to be identified quite satisfactorily.

Europe, is estimated at eight thousand pounds. He appeared to be a modest and obliging person.'

EVELYN records two other visits, which he made at subsequent times. It is obvious that during almost the whole period which elapsed between COURTEN's return to England and his death, his museum was a place of frequent and fashionable resort; notwithstanding the warning which its owner had received as to the perils of a 'public station,' under his peculiar circumstances. To the celebrated diarist himself, his visits seem to have suggested a very natural thought of the public value of such an institution, to be maintained by and for the country at large. And he was very far from keeping the idea to himself. EVELYN lived a more than ordinary term of years, but not long enough to see his idea carried into act. He had, however, helped to prepare the way.

His incidental statement about the estimated money value of the COURTEN Museum does not invalidate a foregoing remark in this chapter. The estimate can hardly have been founded upon better ground than mere conjecture. But it is curious to note the near approach of the guess of 1686 to another guess, on the same small point, made nine years later.

THORESBY's visit occurred in May, 1695. He records it as: 'Walked to Mr. CHARLTON's chambers at the Temple, who very courteously showed me his Museum, which is perhaps the most noble collection of natural and artificial curiosities, of ancient and modern coins and medals, that any private person in the world enjoys. It is said to have cost him seven or eight thousand pounds sterling. . . . I spent the greatest part of my time amongst the coins; though the British and Saxon be not very extraordinary, his [collection of] the silver coins of the Emperors and

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Thoresby,
Diary, 1695,
May 24, vol. i,
p. 299.

Consuls is very noble. He has also a costly collection of medals of eminent persons in Church and State, and of domestic and foreign Reformers. But, before I was half satisfied, an unfortunate visit from the Countess of PEMBROKE and other ladies from Court prevented further queries.'

The visits of the 'ladies from Court' may not have seemed quite so unfortunate to the host who had to entertain them, as to the zealous antiquary whose recondite questions they broke off. At all events, such visits must have been to COURTEN like renewed glimpses of the gayer life of which he had known something in his early days.

In learned leisure, and in quiet pleasures such as these, his life passed gently to its end. He kept up his correspondence as well with some of the surviving friends of his youth, as with two or three of the eminent scholars and naturalists with whom he had made acquaintance during the travel-years of middle life. Failing to raise his fortunes to the height of his early hopes, he yet won contentment by bringing down his desires to the level of his means. He ceased to trouble himself with claims on the Dutch Republic, or with pretensions to a proprietorship in the Island of Barbadoes, or even about his interest in debts contracted by the Crown of England. He had been able, in spite of all losses, to open to his contemporaries means of culture and of mental recreation which, on any like scale, had been before unknown to them. Only in the most famous cities of Italy had the like then been seen. And he had the final satisfaction of making the secured continuance of his Museum the means of further securing, at the same time, the comfort and prosperity of some humble friends and dependants whose faithful attention had helped to solace his own closing years. Nor had he neglected those consolations which are supreme.

William COURTEN's Will was made on his death-bed, in March, 1702. Having bequeathed certain pecuniary legacies—increased two days afterwards by codicil—and having provided for the payment of his debts, he made Dr. Hans SLOANE his residuary legatee and sole executor. He forbade all display at his funeral. He died, at Kensington, on the 26th of March, 1702, wanting two days of the completion of his sixtieth year.* He was buried in Kensington church-yard, near the south-east door of the church. By his friend and executor an altar-tomb, carved by Grinling GIBBONS, was placed above his remains, with this inscription:—

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Juxtà hic sub marmoreo tumulo
jacet GULIELMUS COURTEN, cui Gulielmus pater, Gulielmus avus,
mater, Catharina, Joannis Comitis de Bridgwater filia,
Paternum vel ad Indos præclarum Nomen;
qui tantis haudquaquam degener parentibus,
Summâ cum laude vitæ decurrit tramitem;
Gazarum per Europam indagator sedulus,
quas hinc illinc sibi partas negavit nemini,
sed cupientibus exposuit humanissimè,
Non avaræ mentis pabulum, sed ingenii
si quid naturæ, si quid artis nobile
Opus, id quovis pretio suum esse voluit
ut musis lucidum conderet sacrarium;
ast mortis hæc non sunt curæ!
Hic Musarum cultor tam eximius,
Hic tam insignis viator,
Obiit, Quievit, 7 Cal. Apr. A.D. 1702.
Vixit annos 62, menses xi, dies 28.
Pompa, quam vivus fugit, ne mortuo fieret, testamento cavit,
sed hoc qualecumque monumentum,
et quam potuit immortalitatem,
bene merenti mœrens dedit
HANS SLOANE, M.D.

* The fact is unquestionably so, although upon his tomb it is said at his age was sixty-two years, eleven months, and twenty-eight days.

Sir Hans SLOANE was the seventh and youngest son of Alexander SLOANE, a Scotchman who had married one of the daughters of Dr. George HICKES, Prebendary of Winchester, and who had settled in Ireland on receiving the appointment of receiver-general of the estates of the Lord CLANEBOY, afterwards Earl of CLANRICARDE. He was born at Killileagh, in the county Down, on the 16th of April, 1660.

We learn that almost from earliest youth, Hans SLOANE evinced his possession of quick parts and of keen powers of observation. And he gave early indications of that happy constitution of mind and will which now and then permits the union of intellectual ambition and aspiration, with not a little of prudential shrewdness. A special bias towards the study of the natural sciences was—as it has often been in like cases—one of the things that were soonest taken note of by those about him. Faculties such as these naturally pointed to medicine as a fitting profession for their early possessor. His home studies, however, were checked by a severe illness which threatened his life, and from some of the effects of which he never quite recovered. But that illness helped to qualify him for his future profession. If it took away, for life, the likelihood that the bright promises of the dawn would be altogether realized in his maturity, it seems to have strengthened, in an unusual degree, both the prudential element which already marked his character, and his predisposition to rely mainly, for the success of his plans, upon plodding industry. From youth to old age an

The same inaccurate statement occurs also—and more than once—in papers written by Sir Hans Sloane. Courten was born on the 28th March, 1642. There is an entry of his baptism in the Register of St. Gabriel, Fenchurch, on the 31st of the same month; and a copy of it in MS. Sloane, 3515, fol. 53.

unweariable power of taking pains was his leading characteristic.

In his eighteenth year he came to London with the immediate object of studying chemistry and botany, before he entered on other studies more distinctively medical. He learned chemistry under STAPHORST,* and of botany he acquired a good deal of knowledge by frequenting, with much assiduity, the recently founded Botanical Garden at Chelsea. In the latter pursuit he met with assistance from the intelligent keeper of the garden, Mr. WATTS. And ere long he acquired the friendship of John RAY, and of Robert BOYLE.

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EARLY
STUDIES IN
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1677—1682.

MS. Corresp.

After six years of steady educational labours, both scientific and medical, he went to Paris, which possessed in 1683—and long afterwards—facilities for medical education far superior to any that could then be found in London. His companions in the journey were Dr. Tancred ROBINSON and Dr. WAKELEY.

AND IN
FRANCE.

1683-4.

SLOANE had scarcely got farther into France than the town of Dieppe, before it was his good fortune to make the acquaintance of Nicholas LEMERY, and to find himself able to communicate to that eminent chemist the results of some novel experiments. They journeyed together from Dieppe to Paris, and the acquaintance thus casually formed was productive of good to both of them. The studies begun in Ireland, and assiduously continued in London, were now matured in Paris under men of European fame. And the young botanist who heretofore could profit only by the infant garden established by the London apothecaries at Chelsea, and by an occasional botanizing ramble

*Eloge, in
Mém. de
l'Acad. des
Sciences
(1753); and
MS. Corre-
spondence.
(B. M.)*

* Staphorst was, by birth, a German. He is known in English literature as the translator of Rauwolf's *Travels in Asia*. This task he undertook upon Sloane's recommendation.

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into the country, could now expatiate at will in the magnificent *Jardin des Plantes* of the King of FRANCE. In that botanical university SLOANE, too, had TOURNEFORT—four years his senior—for his frequent companion and fellow-student.

In July, 1683, he took his degree as Doctor of Medicine in the University of Orange. Thence he went to Montpellier, where he resided until nearly the end of May, 1684. After visiting Bordeaux, and some other parts of France, he returned to Paris. There were few towns, in which he made any stay, that had not given him some friend or other, in addition to a valuable accession of knowledge. And the friendships he had once formed were but rarely lost.

Towards the close of 1684 Dr. SLOANE returned to England, whither the reputation of his increased acquirements had preceded him. In January, 1685, he was chosen a Fellow of the Royal Society, and exactly one year afterwards he was proposed for election as Assistant-Secretary. Among the other candidates were Denis PAPIN and Edmund HALLEY. On the first scrutiny, SLOANE had ten votes; HALLEY sixteen. The majority was not enough, but on a second ballot HALLEY was chosen. Early in 1687 he became a Fellow of the College of Physicians. He had thus early laid some foundation for a London practice that would lead him to social eminence, as well as to fortune. And for the good gifts of fortune he had a very keen relish.

Loving wealth well, he loved science still better. But he had already good reason to hope that both might be won, in company. He had become known to Christopher MONK, second Duke of ALBEMARLE, and when that nobleman received, in 1687, the office of Governor-General of the West India Colonies, SLOANE received an invitation

to sail with him, as the Duke's physician and as Chief Physician to the fleet; and he was desired to name his own conditions, if disposed to accept the appointment.

He did not take any long time to think over the offer. If it presented no very brilliant prospect of monetary profit, it opened a large field for scientific research. And, in the main, the field was new. No Englishman had ever yet been tempted to take so long a journey in the interests of science. He knew that he had excellent personal qualifications for turning to good account the large opportunities of discovery that such a voyage was sure to bring. Nor was it less certain that it would bring innumerable occasions for enlarging his strictly professional knowledge. And he had on his side the vigour of youth, as well as its curiosity and its enthusiasm.

In annexing to his reply the conditions of his acceptance he wrote thus: 'If it be thought fit that Dr. SLOANE go as physician to the West Indian Fleet, the surgeons of all the ships must be ordered to observe his directions.

. . . . He proposes that six hundred pounds, *per annum*, shall be paid to him quarterly, with a previous payment of three hundred pounds, in order to his preparation for this service; and also that if the Fleet shall be called on he shall have leave to stay in the West Indies if he desires.' The proposed terms were approved. The Doctor embarked at Portsmouth, in the Duke's frigate *Assistance*, on the 12th of September.

His work as a scientific collector began at Madeira. To reside in that pleasant island was an enjoyment all the more welcome after an unusual share of suffering from seasickness, in the midst of professional toil. For it was doubtably characteristic of SLOANE that, under all circumstances and forms of temptation, medical duties had the

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THE VOYAGE
TO JAMAICA.
1687.

Corresp. in
MS. Sloane,
4069, ff. 86,
87.

Ibid.,
MS. Sloane,
3962, f. 310.

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first place with him. What he achieved for science, throughout his life, was achieved in the intervals of more immediate duty.

Sloane to
Courten;
13. 1687.
Nov. 20.

He reached Barbadoes in November. Thence he wrote to COURTEN: 'This is indeed a new world in all things. You may be sure the task I have is already delightful to me.' Then he continues: 'I am heartily sorry that I, being new landed here, cannot now send [what I have collected for you] with this letter. What I had at Madeira cannot be come at. What is here I have not, as yet, gathered. But you may assure yourself that what these parts of the West Indies afford is all your own, the best way I can send them.'

Medical Cases
appended to
*Voyage to
Jamaica*;
vol. i. (1788).

The collections begun thus favourably were continued at the beginning of December in the islands of Nevis, St. Christopher, and Hispaniola. The fleet reached Port Royal on the 19th of that month. Jamaica was explored with ardent enthusiasm and with minutest care. Its animals and minerals, as well as its plants; its history, as well as its meteorology, were thoroughly studied. And the medical skill of the new-comer was put as heartily at the service of the toil-worn negro as at that of the wealthiest planter, or of the highest officer of the Crown.

But presently SLOAN himself needed the care and skill he so willingly bestowed. 'I had a great fever,' he says, 'though those about me called it a little seasoning.' He had scarcely recovered before his knowledge of the natural history of Jamaica was suddenly and unpleasantly increased.

'Ever since the beginning of February,' I find him writing to the Lord Chief Justice HERBERT (who seems to have been one of the earliest of the many patients who became also friends): 'I dread earthquakes more than heat.

or then we had a very great one. Finding the house to
 ance and the cabinets to reel, I looked out of window
 to see whether people removed the house (a wooden struc-
 ture) or no. Casting my eyes towards an aviary, I saw the
 birds in as great concern as myself. Then, another terrible
 quake coming, I apprehended what it was, and betook me to
 my heels to get clear of the house; but before I got down
 it was over. If it had come the day after, it had
 ighted us ten times more. For the day it happened there
 arrived a Spanish sloop from Porto Bello, giving an account
 of the destruction of great part of the kingdom of
 Peru.'

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Sloane to
 Lord Chief
 Justice
 Herbert;
 MS. Sloane,
 4069, ff. 277,
 278.

Long before this letter was written the exploring studies
 and expedition had been resumed with all the activity of
 renewed health, and they were carried on—at every avail-
 able interval, as I have said, of pressing medical duty—
 throughout the year 1688. That eventful year, during
 which the thoughts and anxieties of the mass of his country-
 men were so differently engrossed, was to SLOANE the
 peculiar seedtime of his study of Nature. All that he was
 able to effect in that attractive path may now seem very
 small and dim, when viewed in the light of subsequent
 achievements. But it was great for that day, when, in
 England, the path was so newly opened that the possession
 of a taste for collecting insects was thought, by able men
 of the world, to be a strong presumption of lunacy. And
 soon fired the ambition of a multitude of inquirers who
 avidly carried the good work of investigation onward, in
 various directions.

Towards the close of the year, the Duke of ALBEMARLE
 suddenly died. The contingency for which SLOANE had
 had the foresight to make provision had arisen, but in a
 quite unexpected way; so that his forecast failed to secure

him that time for continued research which he had coveted and contracted for. The Duchess of ALBEMARLE had accompanied her husband in his voyage, and, after the first shock of his death had been borne, was naturally desirous to leave the colony. SLOANE could not allow her to take the return voyage without his attendance. He hastened to gather up his collections and prepared to come home. The fleet set sail from Port Royal on the 16th of March, 1689.

The voyage was full of anxiety. Such news from England as had yet reached the West Indies was very fragmentary. And the lack of authentic intelligence about the outbreak of the Revolution and its results, had been eked-out by all sorts of wild rumours. The voyagers looked daily with intense eagerness for outward-bound ships that might bring them news, and were especially anxious to know if war had broken out between England and France. When they caught sight of a sail so wistfully watched for, they commonly observed in the other vessel as great a desire to avoid a meeting, as there was amongst themselves to ensure one.

The Duchess of ALBEMARLE had with her a large amount of wealth in plate and jewels, as well as a large retinue. Her anxieties were not lessened when the captain of the frigate said to her Grace, two or three weeks after the departure from Port Royal: 'I cannot fight any ship having King JAMES' commission, from whom I received mine.' On hearing this assurance—which seemed to open to her the prospect, or at least the possible contingency, of being carried into France—the Duchess resolved to change her ship. With SLOANE and with her suite she left the *Assistance*, and re-embarked, first in the late Duke's yacht, and then in one of the larger ships of the fleet.

After this separation, 'our Admiral,' says SLOANE, 'pre-
tended he wanted water and must make the best of his
way for England, without staying to convoy us home,
which accordingly he did.' The voyage, nevertheless, was
made in safety.

They learned very little of what had happened at home,
until they had arrived within a few leagues of Plymouth.
When SLOANE himself went out, in an armed boat, with
the intention of picking up such news as could be gathered
from any fishermen who might be met with near the coast.
The first fishing vessel they hailed did her best to run away,
but it was caught in the pursuit. To the question, 'How is
the King?' the master's reply was, 'What King do you
mean? King WILLIAM is well at Whitehall. King JAMES
is in France.'

SLOANE landed at Plymouth on the 29th of May, with
large collections in all branches of natural history, and with
proved prospects of fortune.' The Duchess of ALBEMARLE
saved to him with great liberality, and for some years to-
wards he continued to be her domestic physician, and lived, for
the most part, in one or other of her houses as his usual place
of residence. In 1690 much of his correspondence bears date
in the Duchess' seat at New Hall, in Essex. In 1692
we find him frequently at Albemarle House, in Clerkenwell.

He had also made, whilst in the West Indies, a lucky
investment in the shape of a large purchase of Peruvian
bark. It was already a lucrative article of commerce, and
the provident importer had excellent professional opportuni-
ties of adding to its commercial value by making its in-
trinsic merits more widely known in England.

The botanists, more especially, were delighted with the
new accessions to previous knowledge which SLOANE had
brought back with him. 'When I first saw,' said John

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*Voyage to
Jamaica, &c.,
vol. ii, p. 344.*

Ibid., p. 347.

EARLY
YEARS IN
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*Sloane
Corresp.,
in MSS.
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RAY, 'his stock of dried plants collected in Jamaica, and in some of the Caribbee Islands, I was much astonished at the number of the capillary kind, not thinking there had been so many to be found in both the Indies.'

The collector, himself, had presently his surprise in the matter, but it was of a less agreeable kind. 'My collection,' he says, 'of dried samples of some very strange plants excited the curiosity of people who loved things of that nature to see them, and who were welcome, until I observed some so very curious as to desire to carry part of them privately home, and injure what they left. This made me upon my guard.'

1693.

On the 30th of November, 1693, SLOANE was elected to the Secretaryship of the Royal Society. A year afterwards he was made Physician to Christ Hospital. It is eminently to his honour that from his first entrance into this office—which he held for thirty-six years—he applied the whole of its emoluments for the advantage and advancement of deserving boys who were receiving their education there. For that particular appointment he was himself none the richer, save in contentment and good works.

THE CATA-
LOGUE OF
WEST
INDIAN
PLANTS, AND
THE CONTRA-
VERSARY WITH
PLUKENET.

In 1696 he made his first appearance as an author by the publication of his *Catalogus Plantarum quæ in insula Jamaica sponte proveniunt, vel vulgo coluntur, cum earundem synonymis et locis natalibus: Adjectis aliis quibusdam quæ in insulis Madeira, Barbadoes, Nevis, et Sancti Christophori nascuntur*. He had already seen far too much of the world to marvel that his book soon brought him censure as well as praise. By Leonard PLUKENET, a botanist of great acquirements and ability, many portions of the Jamaica Catalogue were attacked, sometimes on well-grounded objections; more often upon exceptions rather captious than just, and with that bitterness of expression which is the

1696.

unfailing finger-post of envy. PLUKENET's strictures were published in his *Almagesti Botanici Mantissa*.^{*} SLOANE made no rash haste to answer his critic. Where the censure bore correction of real error or oversight, he carefully profited by it. Where it was the mere cloak of malice, he awaited without complaint the appropriate time for dealing, both with censure and censor, which would be sure to come when he should give to the world the ripened results of the voyage of 1687.

A passage in Dr. SLOANE's correspondence with Dr. CHARLETT, of Cambridge, written in the same year with the publication of the Jamaica Catalogue, shows that even whilst he was still almost at the threshold of his London museum, he was able steadily to enlarge his museum. At that early date, CHARLETT, who had seen it during a visit to London, calls it already 'a noble collection of all natural curiosities.'[†] The collector, when he landed its first fruits at Plymouth, had yet before him—such was to be his un-

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Charlett to
Sloane, in
MS. Corresp.,
4043, f. 193.

As, for example, under the words '*Lapathum*;' '*Poonnacai Malacrum*;' '*Ricinus*;' '*Salix*;' and several others. See *Almagesti Botanici Mantissa*, pp. 113; 143; 161; 165, &c.

Dr. Arthur Charlett's long and intimate correspondence with Sir Hans Sloane began in this year (1696), and continued without interruption until 1720. It has much interest, and fills MS. Sloane 4040, from f. 193 to f. 285. That with John Chamberlayne was of nearly equal value, and is preserved in the same volume (ff. 100-167). The correspondence with James Bobart contains much valuable material for the history of botanical study in England, and is preserved in MS. Sloane, from ff. 158-185). It began in 1685, and was continued until Bobart's death, in 1716. Still more curious is the correspondence with John Plukenet (1722-1738), who was originally a surgeon in the service of the East India Company, and afterwards Surgeon to the King of Spain. Plukenet's letters to Sloane, written from Madrid, contain valuable illustrations of Spanish society and manners as they were in the first half of the Eighteenth Century. This correspondence is in MS. Sloane,

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usual length of days—almost sixty-four years of life. Not one of them, probably, passed without some valuable accession to his museum. And those sixty-four years were the adolescent and formative years of the study of the Physical Sciences in Britain. They were years, too, in the course of which there was to be a great development of British energy, both in foreign travel and in colonial enterprise. Very many were to run to and fro in the earth, so that knowledge might be largely increased. As a traveller, SLOANE had already done his spell of work. But just as that was achieved, he was placed, by his election to the secretaryship to the Royal Society, precisely in the position where he could most extensively profit by a wide correspondence with men of like scientific pursuits all over the world, and could exercise a watchful observation over the doings and the opportunities of explorers.

SUMPTION
THE
HILOMO-
ICAL
ANSAC-
ONS.

But the most immediate result of his secretaryship was the resumption of the suspended *Philosophical Transactions*. The interruption of a work which had already rendered yeoman service to Science, abroad as well as at home, had been caused by a combination of unfavourable circumstances. The death of its first and energetic editor, Henry OLDENBURG; some diminution in the Society's income; and some personal disagreements at its Council board, seem all, in their measure, to have concurred to impede a publication, the continuance of which the best men in the Royal Society knew to be inseparable from the achievement of its true purposes. SLOANE bestirred himself with the steady vigour which had been born with him; impressed his friends into the service; profited by the foreign connections he had formed ten years earlier at Paris, Bordeaux, and Montpellier, and so found new channels by which to

ch the pages of the *Transactions*, as well as to extend : circulation.

He did it, of course, in his own way, and under the ssary influence of his habits and predispositions. One ral result of his labours, as secretary and as editor, was equent prominence of medical subjects, both at the ings and in the subsequent selections for permanent d. If such a prominence might now and then give, em to give, fair ground of complaint to men whose ghts were absorbed in the calculus of fluxions, or e eyes were wont to search the heavens that they t learn the courses of the stars, it had at least the ex- that it tended to the elevation—in all senses of the —of a profession in the thorough education and the fied status of which all the world have a deep interest.

SLOANE, in his day, occasionally made scientific men what more familiar with medical themes than they to be, he did very much to make medical men aware : peculiar duty under which their profession laid them oming also men of true science. And in this way he ed an influence upon medical knowledge, which was the less pregnant with good and enduring results se it was in great measure an indirect influence. It ne of the minor, but memorable, results of the estab- ent of the Royal Society that it tended powerfully to edical practice out of the slough of quackery.

s frequent reading of medical papers during the r's secretaryship could not fail to give an opening, nd again, for the wit of the scorner. A physician, daily practice, is constantly seeing the power of small . He may well, at times, over estimate trifles. In ar 1700, Dr. SLOANE was made the subject of a l pamphlet which appeared under the title of ' *The*

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I, *Transactioneer, with some of his Philosophical Fancies.*
 VI. The author of the satire was Dr. William KING, but, for a
 IDERS considerable time, the authorship was unknown. There
 IN was great anxiety to discover it, not only on SLOANE's
 NE part individually, but on the part of the Council at large.
 CUM. The whole affair was trivial, and would be unworthy of
 memory but that it led to some dissensions within the
 Society itself, which for a long time left marks of their
 influence.

LINE AND SLOANE conceived that *The Transactioneer* was the pro-
 DWARD. duction of Dr. John WOODWARD—the author of *Natural
 History of the Earth*—who was himself a member of the
 Royal Society's Council. WOODWARD, in denying the
 imputation, endorsed the satire. 'Whether there was not
 some occasion given,' he said to the Council, 'may be
 worth your consideration. This I am sure of: The world
 has been now, for some time past, very loud upon that
 subject. And there were those who laid the charges so
 much wrong, that I have but too often had occasion to vin-
 dicate the Society itself, and that in public company.' The
 ill feeling thus excited lasted a long time. It seemed at
 length, that the Society must lose either the services of its
 laborious Secretary or those of his active-tongued opponent.

ation
 'respond-
 e and
 pers; cited
 Brewster,
 Memoirs,
 (2nd
 ed.), vol. II,
 186, 186.

The petty dissension came to a height when SLOANE
 chanced to make some passing medical comment on the
 words 'the bezoar is a gall-stone,' occurring in a paper
 which he was reading to the Society, from the Memoirs of
 the Parisian Academy of Sciences. SLOANE's casual re-
 mark drew from WOODWARD the offensive words, 'No man
 who understands anatomy would make such an assertion.'
 On another occasion he interrupted some observation or
 other made by SLOANE, by exclaiming—'Speak sense, or
 English, and we shall understand you.' A friend or two

WOODWARD tried hard to back him by enlisting the illustrious President on their side. They reminded NEWTON that he had been often himself impatient under the medical dissertations, and they praised Dr. WOODWARD's acquirements in philosophy. 'For a seat in the Council,' replied Sir Isaac, 'a man should be a moral philosopher, as well as a natural one.' Eventually, it was resolved: that Dr. WOODWARD be removed from the Council, for creating a disturbance by the said reflecting words upon SLOANE.' The latter was of a very forgiving temper, and he soon sought to be reconciled with his adversary.

His professional course, meanwhile, was steadily upward. The friendship which he had contracted in 1705 with Dr. SYDENHAM greatly aided his progress. SYDENHAM was retiring from practice, and gave to SLOANE his cordial commendations. In 1712* he was made Physician extraordinary to the Queen, whom he attended, two years afterwards, on her death bed. He filled the office of physician-in-Chief to GEORGE THE FIRST, by whom, on 3rd April, 1716, he was created a Baronet. He was, believe, the first physician who received that dignity. In 1719 he became President of the College of Physicians. In 1727 he received the crowning honour of a life which, to an unusual degree, had already been replete with honour-distinctions of almost every kind. He was placed in the chair of the Royal Society, as the next successor of HUNTER.

Eighteen years before, he had been welcomed into the illustrious Academy of Sciences, the establishment of which honour had followed so quickly upon the foundation of the Royal Society. Both academies had worked with con-

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Records of
the Royal
Society.

History of Europe [the precursor of the *Annual Register*], for 1712.

spicuous success. Both had been adorned by a long line of eminent members. They had frequently, and in many ways, interchanged friendly communion. To SLOANE himself, the reception at Paris had been the prelude of many like invitations from other learned societies in various parts of Europe. No man of his time had a worthier estimate of the dignity involved in the freemasonry of science, nor had any a more conscientious sense of the duties and responsibilities which it entails.

As President of the Royal Society, one of his earliest proposals to the Council was that, for the future, no pecuniary contribution should be received from foreign members whose fellowship it invited as an honour. He urged this step, notwithstanding that the Society was at the time in debt from an unusual arrear of subscriptions,—an arrear so great that he felt it to be right that the Council should be recommended to sue their offending brethren in the law courts. His third proposal, like both the others, had for its object the incontestible advantage and honour of the Society. He checked some nascent abuses in elections by making it necessary that there should be an express approval of every new candidate by the Council, on the recommendation of not less than three fellows, before proceeding to a ballot in the Society at large.

The work by which SLOANE holds his chief place in the literature of science, the *Natural History of Jamaica*, was the work of no less than thirty-eight years. Its materials, as we have seen, were collected in the years 1687 and 1688. The first volume was not published until 1708. Seventeen additional years elapsed before the completion of the second. The fact indicates how crowded with avocations its author's life was, as well as the marked con-

ientiousness and thoroughness which from youth to age
aracterized his doings.

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The Jamaica book cannot be opened without some appre-
tation, even at first sight, of this faculty of thoroughness.
r it is shown not more by the elaboration and beauty of
illustrations, than by the copious citation of authori-
s, on all points in relation to which authority is valuable.
at all previous labourers in his field should have their
l meed of acknowledgment is with SLOANE a prime
tiety.

The West Indian Voyage of 1687-89 had had, it may
e be remarked, other results besides that of exciting new
ulation—at home and abroad—in the study of natural
ory, and in the amassing in cabinets and presses of the
d and preserved objects of that study. It gave a
ked impulse to arboriculture, both in England and in
and. What SLOANE had to show, and to tell of, led to
sending oversea of vessels expressly prepared for the
sport of living trees; and several noble ornaments of
parks and pleasure grounds date their introduction to
lish and Irish soil from the expeditions so set on foot.

SLOANE'S
SERVICES TO
ARBORICUL-
TURE.

he *Natural History of Jamaica* excited considerable
est abroad, as well as at home. Bernard de JUSSIEU
ed to undertake the editorship of a French translation,
BRIASSON, a Parisian bookseller of some eminence,
e to SLOANE that he was willing to incur the charges
risk of publication, on condition that the author would
the copper plates of the original work to Paris, for
in the new edition. Sir Hans, however, objected to
the risk of this transmission across the channel, but
willing to have the needful impression worked off in
on; an arrangement to which the Parisian, in his

Corresp. of
Sloane and
Briasson; in
MS. Sloane,
4039, ff. 136-
140.

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GROWTH OF
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turn, was disinclined to assent, being of opinion—perhaps not unjustly—that, in 1743, the art of copperplate printing was better understood in Paris than in London. On these grounds the negotiation was broken off.

Amidst these varied avocations, the growth of the library and museum went on unceasingly. Friends and foes contributed, in turn, to its enrichment. The year 1702 saw the incorporation with the original gatherings of the West India voyage of the splendid collections of COURTEN, the friend of SLOANE's youth. In 1710, Sir Hans acquired the valuable herbaria of his old assailant, Leonard PLUKENET. In 1718 he purchased the extensive collections, in all departments of natural history, of another friend of early years, James PETIVER. The herbarium of Adam BUDDLE, a botanist little remembered now but of note in his generation, came to SLOANE, as a token of friendship, from the death-bed of its collector. The scientific possessions of Dr. Christopher MERRET were purchased from his son, and from time to time, when valuable collections were known to be on sale upon the Continent, agents went across to buy.

MS. Sloane,
4069, *passim*.

Of these numerous sources of augmentation the museum of PETIVER was next in importance to that of COURTEN—but with a considerable interval. It is said (in the contemporary correspondence, as I think) that its cost to SLOANE was four thousand pounds. But remembering what four thousand pounds was a hundred and fifty years ago, there is reason to suspect some exaggeration in the statement.

THE
NATURAL
HISTORY
COLLEC-
TIONS OF
PETIVER.

James PETIVER, when Sir Hans first became acquainted with him, was serving, as an apprentice, the then apothecary of St. Bartholomew's Hospital. He afterwards became apothecary to the Charter House. He had, in one way

other, made for himself a singularly extensive acquaintance amongst seafaring men ; and by their help had established almost world-wide correspondence with people interested in natural history, or possessed of special opportunities for gathering its rarities. Of such rarities, SLOANE somewhere says, ' He had procured, I believe, a greater quantity than any man before him.' But in course of time his collections overpowered his means, or his industry, for the work of preservation and arrangement. When, at the collector's death, they passed into the possession of his friend, choice specimens were found, not in order, but in heaps. The classification and ordering occupied many hands during many months.

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The charities of human life were not, in the breast of Sir Hans SLOANE, choked either by the various allurements of the preoccupations of science, or by the ceaseless toils of a busy and anxious profession. He was a very liberal giver, but also a discriminating and conscientious giver. I have lately seen a correspondence which mirrors more strikingly than does that of SLOANE, a just and equable attention to multifarious and often conflicting claims.

SLOANE'S
CORRE-
SPONDENCE,
AND HIS
CHARITIES.

The multiplicity of the claims was, indeed, as notable as the patience with which they were listened to. Not to fall upon the innumerable gropings after money of which, in one form or other, every man who attains any sort of eminence is sure to have his share (but of which Sir Hans SLOANE seems to have had a Benjamin's portion) or upon importunate requests for the use of influence, at Court, at Treasury, at the London Hospitals, at the Councils of the Royal Society or of the College of Physicians, or elsewhere ; his fame brought upon him a mass of calls and solicitations from utter strangers, busied with

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less worldly aims and pursuits. Enthusiastic students of the deep things of theology sought his opinion on abstruse and mystical doctrines. Advocates of perpetual peace, and of the transformation, at a breath, of the Europe of the eighteenth century into a new Garden of Eden, implored him to endorse their theories, or to interpret their dreams.

His replies are sometimes both characteristic and amusing; none the less so for the fact that his power of writing was, at all times, far beneath his other mental powers and attainments. Now and then, though rarely, a touch of humour lights up the homeliness of phrase.

To one of the enthusiasts in mystic divinity, who had sent for his perusal an enormous manuscript, he replied: 'I am very much obliged for the esteem you have of my knowledge, which, I am very sure, comes far short of your opinion. As to the particular controversies on foot in relation to Natural and Revealed Religion, and to Predestination, I am no ways further concerned than to act as my own conscience directs me in those matters; and am no judge for other people. . . . I have not time to peruse the book you sent.'

Sloane to
Gabriel
Nisbett, May,
1737, MS.
Sloane, 4069,
f. 38.

To the worthy and once famous Abbé DE SAINT PIERRE, who would fain have established with SLOANE a steady correspondence on the universal amelioration of mankind, by means of a vast series of measures, juridical, political, and politico-economical, which started from the total abolition of vice and of war, and descended to the improvement of road-making by some happy anticipation—a hundred years in advance—of our own MACADAM, he wrote thus: 'I should be very glad to see a general Peace established, for ever. Rumours of war are often, indeed, found to be baseless, and the fears of it, even when well grounded, are often dissipated by an unlooked-for Providence. But poor

Sloane to
St. Pierre,
MS. Sloane,
4069, f. 44.

rtals are often so weak as to suffer, in their health, from fear of danger, where there is none !’

Letters on high themes like these had their frequent ety, in the shape of proffers of contributions, to be made n terms, for the enlargement of the Museum, the fame of ch had now spread into very humble ranks of society. A le specimen in this kind will suffice : ‘ I understand,’ te a correspondent of a speculative turn, ‘ you are a t virtuoso, and gives a valuable consideration for novel- of antiquity,’—on getting thus far in the perusal, one imagine Sir Hans murmuring ‘ not willingly, I assure ’—‘ a pin has been many hundred years in our family, was, I am told, the pin of the first Saxon king of the t Angles,’ and so on.

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ntil the year 1741, a few months after his resignation e chair of the Royal Society on the score of old age, Hans SLOANE continued to live chiefly in London ; gh often removing, for part of the summer months, to Manor House in the then charming suburb of Chelsea. had purchased that valuable manor, from the family heyne, in 1714. The fine old House abounded in rical recollections and amongst them, as most readers remember, in associations connected with the memory r Thomas MORE. It had the additional attraction of ge and beautiful garden, close to that other garden in i the now Lord of the Manor had pursued, with all nergies of youth, the study of botany. One of his st acts of lordship had been a graceful gift to the any of Apothecaries, of the freehold in the land of i till then they had been tenants. In 1741 he trans- his Museum and Library from Bloomsbury to Chel- His former house—situated in Great Russell Street,

ACQUISITION
OF THE
MANOR
OF CHELSEA.

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near the corner of what is now Bloomsbury Square—had been capacious, but the new one admitted of a greatly improved arrangement and display of the collections.

A ROYAL
VISIT TO
THE SLOANE
MUSEUM AT
CHELSEA.

The state and character of the Sloane Museum, in the fullness to which the collector had brought it during these latest years of his life, can scarcely be exemplified better than in a contemporary account of a visit which was paid to the Manor House at Chelsea by the Prince and Princess of Wales, in the year 1748. I quote it, almost verbally, from the *Gentleman's Magazine* of that year, but with some unimportant omissions.

G. M.,
vol. xviii,
pp. 301, 302.
(July, 1748.)

At that date, the Manor House formed a square of above a hundred feet on each side, enclosing a court. Three of the principal rooms were, on the occasion of this royal visit, filled successively—as the visitors passed from one room into another—with the finest portions of the collections in its most portable departments. The minerals were first shown. The tables were spread with drawers filled with all sorts of precious stones in their natural beds, as they are found in the earth, except the first table, which contained stones found in animals, such as pearls, bezoars, and the like. Emeralds, topazes, amethysts, sapphires, garnets, rubies, diamonds, . . . with magnificent vessels of cornelian, onyx, sardonyx and jasper, delighted the eye, says the attendant describer, and raised the mind to praise the great Creator of all things.

When their Royal Highnesses, continues our narrator, had viewed one room, and went into another, the scene was shifted. When they returned, the same tables were covered, for a second course, with all sorts of jewels, polished and set after the modern fashion, and with gems carved and engraved. For the third course, the tables were

iling finger-post of envy. PLUKENET's strictures were published in his *Almagesti Botanici Mantissa*.^{*} SLOANE took no rash haste to answer his critic. Where the sure bore correction of real error or oversight, he care- profited by it. Where it was the mere cloak of malice, awaited without complaint the appropriate time for ing, both with censure and censor, which would be to come when he should give to the world the ripened lts of the voyage of 1687.

passage in Dr. SLOANE's correspondence with Dr. RLETT, of Cambridge, written in the same year with publication of the Jamaica Catalogue, shows that even at he was still almost at the threshold of his London he was able steadily to enlarge his museum. At that

date, CHARLETT, who had seen it during a visit to lon, calls it already 'a noble collection of all natural sities.'[†] The collector, when he landed its first fruits ymouth, had yet before him—such was to be his un-

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Charlett to
Sloane, in
MS. Corresp.,
4043, f. 193.

s, for example, under the words '*Lapathum*;' *Poonnacai Mala-* m; '*Ricinus*;' '*Saliz*;' and several others. See *Almagesti Bota-* *antissa*, pp. 113; 143; 161; 165, &c.

r. Arthur Charlett's long and intimate correspondence with Sir Sloane began in this year (1696), and continued without inter- n until 1720. It has much interest, and fills MS. Sloane 4040, . 193 to f. 285. That with John Chamberlayne was of nearly equal on, and is preserved in the same volume (ff. 100-167). The corre- ence with James Bobart contains much valuable material for the 7 of botanical study in England, and is preserved in MS. Sloane, f. 158-185). It began in 1685, and was continued until Bobart's in 1716. Still more curious is the correspondence with John t (1722-1738), who was originally a surgeon in the service of st India Company, and afterwards Surgeon to the King of Spain. t's letters to Sloane, written from Madrid, contain valuable illus- s of Spanish society and manners as they were in the first half Eighteenth Century. This correspondence is in MS. Sloane,

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THE WILL
AND CODI-
CILE OF
1749-51.

Plans, more or less definite, of perpetuating those collections for public use had occasionally engaged their owner's thoughts almost from the date of his acquisition of the Museum of William COURTEN, in 1702. In 1707, he had watched with interest a scheme that had been set on foot for the formation of a Public Library in London by combining the old Royal Collection with the collections of Sir Robert CORRON and of the Royal Society.* But that scheme failed of execution, until, almost half a century later, it was, in the main, revived and carried out as the indirect but very natural consequence of his own testamentary dispositions.

His Will, in its first form, was made at Chelsea in 1748, but was replaced on the 10th July, 1749, by the following codicil:—

THE TESTA-
MENTARY
DISPOSAL
OF THE
COURTEN
AND SLOANE
MUSEUM.

‘Whereas I have in and by my said Will given some directions about the sale and disposition of my Museum, or collection of rarities herein more particularly mentioned, now I do hereby revoke my said Will, as far as relates thereto, and I do direct and appoint concerning the same in the following manner: Having had from my youth a strong inclination to the study of plants and all other productions of nature, and having through the course of many years, with great labour and expense, gathered together whatever could be procured either in our own or foreign countries that was rare and curious; and being fully convinced that nothing tends more to raise our ideas of the power, wisdom, goodness, providence, and other perfections of the Deity, or more to the comfort and well being of his creatures,

* ‘Here are great designs on foot for uniting the Queen’s Library, the Cotton, and the Royal Society’s, together. How soon they may be put in practice time must discover.’—*Sloane to Dr. Charlett, Master of University College, April, 1707.*

1 the enlargement of our knowledge of the works of
 re, I do will and desire that for the promoting of these
 le ends, the glory of God, and the good of man, my
 action in all its branches may be, if possible, kept and
 erved together whole and entire, in my Manor House
 he Parish of Chelsea, situate near the Physic Garden
 n by me to the Company of Apothecaries for the same
 poses; and having great reliance that the right honour-
 , honourable, and other persons hereafter named, will
 influenced by the same principles and [will] faithfully
 conscientiously discharge the trust hereby reposed in
 1, I do give, devise, and bequeath, unto the Rt. Hon.
 les Sloane CADOGAN [*and to forty-nine other
 ms whose names follow,*] all that my Collection or
 eum at, in, or about, my Manor House at Chelsea
 said, which consists of too great a variety to be parti-
 ly described, but which are more particularly
 ibered, mentioned, and numbered, with short histories
 counts of them, with proper references, in certain
 ogues by me made, containing thirty-eight volumes in
 and eight volumes in quarto,—except such framed
 res as are not marked with the word “*Collection*”—to
 and to hold to them and their successors and assigns
 ver, upon the trusts, and for the uses and
 ses, . . . hereafter particularly specified concerning
 ame.

nd for rendering this my intention more effectual that
 aid Collection may be preserved and continued entire
 utmost perfection and regularity, and being assured
 nothing will conduce more to this than placing the
 under the direction and care of learned, experienced,
 udicious persons who are above all low and mean
 , I do earnestly desire that the King, H.R.H. the

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Prince of WALES, H.R.H. William, Duke of CUMBERLAND, the Archbishop of CANTERBURY for the time being
[and twenty-eight others, being chiefly great Officers of State] will condescend so far as to act and be Visitors of my said Museum and Collection; and I do hereby, with their leave, nominate and appoint them Visitors thereof, with full power and authority for any five or more of them to enter my said Collection or Museum, at any time or times, to peruse, supervise, and examine, the same, and the management thereof, and to visit, correct, and reform, from time to time, as there may be occasion, either jointly with the said Trustees or separately—upon application to them for that purpose, or otherwise—all abuses, defects, neglects or mismanagements, that may happen to arise therein, or touching and concerning the person or persons, officer or officers, that are or shall be appointed to attend the same.

thentic
vies, &c.
M.)
p. 12.

‘ And my will is and I do hereby request and desire that the said Trustees, or any seven or more of them, do make their humble application to His Majesty, or to Parliament at the next session after my decease,—as shall be thought most proper,—in order to pay the full and clear sum of twenty thousand pounds unto my executors or to the survivors of them, in consideration of the said Collection or Museum; it not being, as I apprehend or believe, a fourth of their real and intrinsic value; and also to obtain such effectual powers and authorities for vesting in the said Trustees all and every part of my said Collection, . . . and also my said capital Manor-House, with such gardens and outhouses as shall thereunto belong and be used by me at the time of my decease, in which it is my desire that the same shall be kept and preserved; and also the water of or belonging to my Manor of Chelsea coming from Ken-

ton, . . . and also that the advowson, presentation, right of patronage of the Church of Chelsea; to the end the same premises may be absolutely vested in the said Trustees for the preserving and continuing my said Museum in such manner as they shall think most likely to answer the public benefit by me intended, and also obtain, as aforesaid, a sufficient fund and provision for maintaining and supporting my said Manor House, . . . to be vested in the said Trustees for ever. . . . And it is also my will and desire that all such other powers . . . may be added or vested in the said intended Trustees as in the Visitors may be appointed, as shall by the Legislature be thought fit proper and convenient for the better management, preservation, and care, of my said Collection and premises.'

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*Authentic
Copies, &c.
(B. M.)
17, p. 19.*

Provision is then made, in subsequent clauses of this will, for the replacement, by the Trustees surviving, from time to time, of vacancies occasioned by death in the ranks of the Trustees first appointed; and by surviving Visitors of vacancies so occasioned in those of the original Trustees.

On 1 September, 1750, another codicil added to the list of Trustees—in order to supply vacancies which death had already wrought—the Earls of MACCLESFIELD and SHELTON, and the then Master of the Rolls, Sir John STRANGE, with proviso of succession for the Master of the Rolls of the time being. Sir John BERNARD, Sir William CALVERT, Mr. Slingsby BETHEL were, in like manner, added to the roll of Trustees. The same codicil excepted the advowson of the Rectory of Chelsea from the bequest of 1749, and annexed it to the lordship of the Manor.

LATER
CODICILS.

At his marriage with the daughter and heiress of Mr. HENRY BLEY, an Alderman of London, Sir Hans SLOANE issued two daughters, but no son. The elder of the

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daughters, Sarah SLOANE, married George STANLEY, of Poultons, in Hampshire; the younger, Elizabeth, married Lord CADOGAN. By the representatives of those co-heiresses the large inheritance was eventually enjoyed.

A subsequent codicil of 1751, added nine other Trustees, five of whom were distinguished foreigners. Among the four English names are those of John HAMPDEN ('twenty-fourth hereditary lord of Great Hampden,' and last lineal male descendant of that famous stock) and William SOTHEY.

ENCLOSING
ARS.

The declining years of a man to whom had been given, not only unusual length of days, but an unusual span both of bodily and of mental vigour, so that he remained in the rank of busy men until he had passed his eightieth year, were necessarily days of seclusion. He had enjoyed not only the honours* and the comforts, but the troop of friends which should accompany old age. Yet a man who reaches the age of ninety-two must needs lose the friends of his maturity, as well as the friends of his youth. Sir Hans SLOANE, in the old Manor House of Chelsea, had something of the experience which made a famous statesman of our own day, who was loth to leave the stir of London life, say—with a sigh—'I see all the world passing my windows, but few come in.'

His chief recreations, in those latest years, lay in the continued examination of the stores of nature and of art which never palled upon his capacity of enjoyment, and in the regular weekly visit of a much younger man, who was

* Besides those distinctions which I have noted already, he had been requested, in 1730, by the University of Oxford, to allow his portrait to be placed in the University Gallery. In 1733 his statue, by Rysbræck, was placed in the Botanic Garden at Chelsea.

conversant in the busy world without ; who could talk, talk well, alike upon public events, upon the novelties of science, and upon the gossip of the coffee-houses and the streets. This friend of old age was George EDWARDS, a naturalist of considerable acquirements, and the author of *Essays on Natural History* which are still worth reading.

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SLOANE'S mental vigour long outlived his power of bodily motion. For years he could move from room to room, and on very bright days from room to garden, only by the aid of an invalid chair. In other respects, his health gave no ready sanction to the counsel which he had been wont to receive, not infrequently, in lieu of an invited but superfluous prescription. 'I advise you,' he would say, 'to what nature dictates myself. I never take physic when I am well. When I am ill, I take little, and only such as has been very successfully tried.'

The end of a bright, abundant, and most useful life, came at the beginning of the year 1753. On the tenth of January, George EDWARDS found him rapidly sinking, and suffering severely. On the eleventh he found him at the point of death. He continued with him,' he wrote, 'later than any one of his relatives. But I was obliged to retire—his last agonies went beyond what I could bear ; although, under his painful weakness of body, he seemed to retain a great firmness of mind and resignation to the will of God.' He was buried elsewhere, in the same vault in which, twenty-eight years afterwards, he had buried his wife.

His indefatigable collector had continued to enrich his museum with new accessions as long as he lived. We have various means of estimating its growth—as regards mere numbers, of course—by comparing a synoptical table drawn up

SYNOPTICAL
TABLES OF
THE SLOANE
MUSEUM.

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PART VI.
IN
THE
GARDEN
OF
THE
MUSEUM.

in 1725—for the purpose of showing to certain grumblers what had been the nature and aim of those avocations which had delayed the completion of the *Natural History of Jamaica*—with another table drawn up by his Trustees immediately after his death.

The comparison of numbers shows that the twenty thousand two hundred and twenty-eight coins and medals of 1725 had grown, in 1752, to thirty-two thousand. Other antiquities had increased from eight hundred and twenty-four to two thousand six hundred and thirty-five. The minerals and fossils had increased from about three thousand to five thousand eight hundred and twenty-two specimens. The botanical collection which, in 1725, had numbered eight thousand two hundred and twenty-six specimens, together with a *Hortus Siccus* of two hundred volumes, had become in 1752 twelve thousand five hundred specimens, with a *Hortus Siccus* of three hundred and thirty-four volumes. The other natural history collections had increased on the average by more than one half. The details are as follows:—

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Volumes in 1725.		Volumes in 1753.
2,686	1. MANUSCRIPTS	3,516
136	2. DRAWINGS	347
.. . . .	3. PRINTED BOOKS . . .	about 40,000
200	4. HORTUS SICCUS	334
Specimens in 1725.		Specimens in 1753.
20,228	5. MEDALS and COINS . . .	32,000
302	6. ANTIQUITIES	1,125
{ 81	7. SEALS, &c. . . .	268
{ 441*	8. CAMBOS and INTAGLIOS .	about 700
1,394	9. PRECIOUS STONES . . .	2,256
see under No.8.]	10. VESSELS OF AGATE, JASPER, &c.	542
1,025	11. CRYSTALS, SPARS, &c. .	1,864
730	12. FOSSILS, &c. . . .	1,275
1,394	13. METALS and MINERAL ORES .	2,725
536	14. EARTHS, SANDS, SALTS, &c.	1,035
249	15. BITUMENS, SULPHURS, &c.	399
169	16. TALCS, MICÆ, &c. . . .	388
3,753	17. SHELLS	5,843
804	18. CORALS, SPONGES, &c. . .	1,421
486	19. ECHINI, ECHINITES, &c. .	659
183	20. ASTERIÆ, TROCHI, &c. . .	241
263	21. CRUSTACEA	363
.. . . .	22. STELLÆ MARINÆ	173
1,007	23. FISHES, and their parts . .	1,555
753	24. BIRDS, and their parts . .	1,172
345	25. VIPERS, &c. . . .	521
1,194	26. QUADRUPEDS	1,886
3,824	27. INSECTS	5,439
507	28. ANATOMICAL PREPARATIONS, &c.	756
8,226	29. VEGETABLES	12,506
1,169	30. MISCELLANEOUS THINGS . .	2,098
319	31. PICTURES and DRAWINGS, framed	310
54	32. MATHEMATICAL INSTRUMENTS .	55

BOOK I,
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THE
FOUNDERS
OF THE
SLOANE
MUSEUM.

the 27th January—sixteen days after Sir Hans' death
out forty of the Trustees named in the Will met at

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 OF
 THE
 COUNCIL
 OF THE
 MUSEUM.

Chelsea, to confer with the Executors. Lord CADOGAN produced the Will and its Codicils. By these, should the bequest and its additions be accepted, the manor house and land, together with the collection in its existing state and arrangement, would be given to the Public. This, said Lord CADOGAN, will save the hazard and expense of removal. Mr. William SLOANE then informed the Trustees that the Executors had thought it prudent temporarily to remove the medals of gold and silver, the precious stones, gems, and vases, to the Bank of England, in order to ensure their present safety.

The Earl of MACCLESFIELD was then placed in the chair. A synopsis of the contents of the Museum was read by Mr. James EMPSON, who had acted as its curâtor for many years. Mr. EMPSON was appointed to act as Secretary to the Trustees, and a form of Memorial to be addressed to the King, in order to the carrying out of the trusts of the Will, was agreed upon.

THE ACT
 FOR ESTAB-
 LISHING THE
 BRITISH
 MUSEUM.

The Memorial had—eventually—the desired effect. It led, in the course of the year 1753, to the passing of an Act of Parliament—26 GEORGE II, chapter 22—which is entitled *An Act for the purchase of the Museum or Collection of Sir Hans SLOANE, and of the Harleian Collection of Manuscripts, and for providing one General Repository for the better reception and more convenient use of the said Collections, and of the Cottonian Library, and of the additions thereto.*

The Act recites the tenour of the testamentary dispositions made by Sir Hans SLOANE. It also recites that a provisional assent had been given by his Trustees to the removal of his Museum from the Manor House of Chelsea ‘to any proper place within the Cities of London and Westminster, or the suburbs thereof, if such removal shall be judged most advantageous to the Public.’

the Act then proceeds to declare that, 'Whereas, all arts and sciences have a connexion with each other, and discoveries in natural philosophy and other branches of speculative knowledge,' for the advancement whereof the Museum intended, may, in many instances, give help to useful improvements and inventions, 'therefore, to the end that the Museum may be preserved and maintained, not only for the inspection and entertainment of the learned and the curious, but for the general use and benefit of the Public,' enacted by Parliament that the sum of twenty thousand pounds shall be paid to the Executors of Sir Hans SLOANE, in satisfaction for his said Museum.

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MUSEUM.

In this Statute, also, the preceding original Act for the establishment of the Cottonian Library (12th and 13th of WILLIAM III, c. 7), together with the subsequent Act on that subject (5th ANNE, c. 30), are severally recited, and is declared as follows:—

First, 'Although the public faith hath been thus engaged to provide for the better reception and more convenient use of the Cottonian Library, a proper repository for that purchase hath not yet been prepared, for the want of which the Library did . . . suffer by a fire;'

FURTHER
PROVISIONS
OF THE ACT
OF INCORPORATION.

secondly, 'Arthur EDWARDS, late of Saint George's, Strand, in the county of Middlesex, Esquire, being directed to preserve for the public use the said Cottonian Library, and to prevent the like accident for the future, he hath paid the sum of seven thousand pounds'—after the occurrence of a certain contingent event—for the purchase of erecting, 'in a proper situation, such a house as should be most likely to preserve that Library from all accidents, or—in the event of the performance by the Public, in the falling out of the contingency above mentioned, the duty to which it already stood pledged by Act of

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Parliament, then—for the purpose of purchasing such manuscripts, books of antiquities, ancient coins, medals, and other curiosities, as might be worthy to increase the Cottonian Library aforesaid;’ to which end the same public benefactor further bequeathed his own library.

In order therefore to give due effect, at length, both to the primary donation of Sir John COTTON, and to the additional benefaction made thereto by Major Arthur EDWARDS, Parliament now enacted that a general repository should be provided for the several collections of COTTON, EDWARDS, and SLOANE, and that Major EDWARDS’ legacy of money should be paid to the Trustees created by the new Act, in accordance with the provisions heretofore recited in Sir HANS SLOANE’s codicil of 1749.

THE SER-
VICES OF
MR. SPEAKER
ONSLow IN
THE FORMA-
TION OF THE
BRITISH
MUSEUM.

It is to the exertions, at this time, of Arthur ONSLOW, the then Speaker of the House of Commons, that historical students owe their debt of gratitude for the preservation of the Harleian Manuscripts from that dispersion,—abroad as well as at home,—which befel the Harleian printed books.

When the Memorial of SLOANE’s Trustees was first presented to GEORGE THE SECOND, he received it with the stolid indifference to all matters bearing upon science and mental culture, which was as saliently characteristic of that king as were his grosser vices. ‘I don’t think there are twenty thousand pounds in the Treasury,’ was the remark with which he dismissed the proposal. Money could be found, indeed, for very foolish purposes, and for very base ones. And the bareness of the Treasury was, very often, the natural result of the profligacy of the Court. But, in 1753, it was a fact.

Save for Speaker ONSLOW’s exertions, the Memorial would have fared little better in Parliament than at Court. The

Premier, Henry PELHAM, was not unfriendly to the ne, nor was he, like his royal master, a man of sordid re; but a Minister who was every now and then obliged ite to his ambassadors abroad, even in the crisis of rtant negotiations, 'I have ordered you a part of your ear's appointments, but we are so poor that I can do ore,' could hardly be eager to provide forty or fifty and pounds for the purchase of a new Museum and afety of an old Library.

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slow proposed—eventually—as a means of over- g these difficulties, that a sum of money should be by a public lottery, and that it should be large h to effect not only the immediate objects contem- by the Will of Sir Hans SLOANE, and by the prior establishment of Sir Robert COTTON's Library, but rchase for a like purpose the noble series of Manu- which had passed (just eleven years before SLOANE's to the executors of the last Earl of OXFORD, in trust widow, the Dowager Countess, and for his daughter, chess of PORTLAND.

1763.
Commons'
Journals,
March 19,
seqq.

ard, Earl of OXFORD, had stood at one period of his the rank of the wealthiest of Englishmen. He was ner of estates worth some four or five hundred thou- ounds. He was, too, a man of highly intellectual dious tastes; but, in his case, a magnificent style of great generosity, and excessive trust in dependants, at is more usually the work of huge folly or of ins; they brought him into circumstances which, for tion in life, might almost be called those of poverty. this comparative impoverishment, his own act—it is an probable—would have secured to posterity the ent, in its entirety, of the splendid library he had d and increased.

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To the proposal of a lottery there was much solid objection. What were then called 'parliamentary lotteries' had been introduced expressly to put down those private lotteries, common in the sixteenth and seventeenth centuries, which had been fraught with mischief. It was hoped, or pretended, that a 'regulated' evil would be reduced within tolerable limits, whilst bringing grist to the national mill. But the forty years that had passed since the first parliamentary lottery of 1709 had shown that the system was essentially and incurably mischievous. PELHAM was averse to its continuance. As First Lord of the Treasury, it was his poverty, not his will, that consented to the adoption of so questionable an expedient for the purchase of the SLOANE Collections. He had not, individually, any such love of learning as might have induced an appeal to Parliament to set, for once, an example of liberal and far-sighted legislation. He merely stipulated that some stringent provisos should be put into the Act, directed against the nefarious practices of the lottery-jobbers.

THE LOT-
TERTY OF 1753
FOR THE
PURCHASE
OF THE
SLOANE AND
HARLEIAN
COLLEC-
TIONS.

Eventually, it was enacted that there should be a hundred thousand shares, at three pounds a share; that two hundred thousand pounds should be allotted as prizes, and that the remaining hundred thousand—less the expenses of the lottery itself—should be applied to the threefold purposes of the Act, namely, the purchase of the SLOANE and HARLEIAN Collections; the providing of a Repository; and the creation of an annual income for future maintenance.

By the precautionary clauses of the Bill, provision was made for the prolonged sale of shares; for the prevention of the purchase by any one adventurer of more than twenty shares, or 'tickets,' and for other impediments, as it was

ght, to a fraudulent traffic in the combined covetous-
and ignorance of the unwary.

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these precautions proved to be vain. Mr. PELHAM's
ition was abundantly justified by the result. Fraud
d to be, in that age, just as inseparable an element in
tery scheme, however good its purpose, as fraud has
d to be, in this age, an inseparable element (at one
or other of the business) in a Railway scheme,—how-
seful the line proposed to be made.

thus came to pass that the foundation of the BRITISH
UM gave rise to a great public scandal. When evi-
was produced that many families had been brought
ery, as the first incident in the annals of a benefi-
und noble foundation, a somewhat dull Session of
ment was suddenly enlivened by an animated and
debate.

provident clauses in the Lottery Act of 1753 were
of no effect, mainly by entrusting the chief share in
ing the Act to an accomplished jobber. One Peter
P was made a Commissioner of the Lottery. This
ad held some employment or other at Hanover, from
he had been recalled with circumstances of disgrace.
o be inferred, from the way in which his name points
grammatic phrase in one of the letters of BOLING-
,* and in more than one of those of Horace WALPOLE,
had come, long before this appointment took place,
e a sort of proverbial currency, like the names of
L ' or of ' CHARTRES.' But, be that as it may, Mr.
issioner LEHEUP set on foot as thriving and as
ous a traffic in SLOANE lottery tickets, as was ever

THE PROSECUTION OF
LEHEUP FOR
HIS DEALINGS WITH
THE MUSEUM
LOTTERY.

1753.
December.

alpole is your tyrant to-day; and any man His Majesty pleases
—Horace or Leheup—may be so to-morrow.'—*Bolingbroke to*
ont, 22 July, 1739.

K I,
A. VI.

NDERS
HE
ANE
EUM.

set on foot in railway shares by a clever promoter of our own day. He wrote circular letters instructing his correspondents how most effectually to evade the Act. He sold nearly three hundred tickets to a single dealer by furnishing him with a list of ' Roes ' and ' Does,' ' Gileses ' and ' Stileses,' at discretion. He supplied himself, with equal liberality; and contrived to close the subscription, after an actual publicity of exactly six hours—for the issue of one hundred thousand tickets. In a few days, of course, tickets in abundance were to be had, at sixteen shillings premium upon each, and in what looked to be a still rising market. The trap proved to be brilliantly 'successful.'

The subsequent explosion of parliamentary anger was rather increased than lessened by an attempt of Henry Fox (afterwards the first Lord Holland) to extenuate LEHEUP's offence by some arguments of the '*Tu quoque*' sort. By a great majority, the House of Commons sent up an address praying the King to direct his Attorney General to prosecute the chief offender, who was accordingly convicted and fined a thousand pounds. It is not uninteresting to note that Horace WALPOLE—himself one of the SLOANE Trustees—treats the matter in one of his letters exactly in the off-hand man-of-the-world style in which Henry Fox had treated it in the House of Commons.*

By this unfortunate episode, the name of one of the best of Englishmen was brought into a sort of momentary connection with the name of one of the worst. But the chief discredit of the story does not really rest upon LEHEUP. A private citizen, of moderate means, had been willing to expend seventy or eighty thousand pounds—besides an in-

* 'Our House of Commons—mere poachers—are piddling with the torture of Leheup, who extracted so much money out of the Lottery.'—*Horace Walpole to Richard Bentley*, 19 December, 1753.

able amount of labour and research—upon an object
ially and largely public. Yet a British Parliament
not summon up enough of public spirit to tax its own
ers, in common with their tax-paying fellow subjects
ghout the realm, to the extent of a hundred thousand
s, in order to meet an obvious public want, to redeem
ual parliamentary pledge, and to secure a conspicuous
al honour for all time to come. That want of public
did not exhaust its results with the ruin of the poor
s, scattered here and there, whose scanty means had
azarded and lost by gambling, under a parliamentary
ition. It impressed itself, so to speak, on the subse-
history of the institution for more than forty years.
luseum had been founded grudgingly. It was kept
rsimoniously.

l that fact been otherwise, the story of the knavery
er LEXEUP would have little merited recital a century
; and he, had passed into oblivion.

value of so small an incident in the crowded story
National Museum lies simply in the fact that it forms
and salient illustration of the narrowness of spirit
hich the then representatives of the people received
veral gift of public benefactors. It serves to show
was that, from the year 1753 down to some years
800, the History of the British Museum casts very
onour on Britain as a nation, whereas the precedent
of its integral parts, as separate and infant collec-
casts, and will long continue to cast, great honour on
mory of the COTTONS, the HARLEYS, and the SLOANES,
on they were painfully gathered and most liberally
sed.

pily, as the course of this narrative—whatever its

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OK I,
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shortcomings—cannot fail to show, the literary and scientific treasures which men of that stamp had collected, came, in a subsequent generation (and, in a chief measure, by dint of the exertions of the Trustees and Officers to whom they had been, in course of time, confided) to be more adequately estimated by Ministers and by Parliament in their public capacity, as well as by the more cultivated portion of the people generally. For more than a half-century past the History of the British Museum has been one that any Briton may take delight and pride in telling. And such it promises to be, preeminently, in the time yet to come. In a conspicuous sense, the men by whom it was first founded, and the men by whom, for what is now a long time past, it has been administered and governed, have alike been true workers for Posterity.

BOOK THE SECOND.



*THE ORGANIZERS, AND EARLY
AUGMENTORS.*

CONTENTS OF BOOK II:—

CHAPTER I. INTRODUCTORY.—EARLY HISTORY OF THE BRITISH MUSEUM.

II. A GROUP OF ARCHEOLOGISTS AND CLASSICAL EXPLOREERS.

III. THE COLLECTORS OF THE CRACHERODE, LANSDOWNE, BUENEY, AND EGERTON LIBRARIES, AND OF THE APPENDANT COLLECTIONS.

IV. THE KING'S LIBRARY—ITS COLLECTOR AND ITS DONOR.

V. THE FOUNDER OF THE BANKSIAN MUSEUM AND LIBRARY.

THE King made this Ordinance :—That there should
mission of three of the brethren of Solomon's House,
errand was only to give us knowledge of the affairs
ate of those countries to which they were designed,
pecially of the Sciences and Inventions of all
orld ; and withal to bring us books, instruments,
atterns in every kind.

we have also precious stones, of all kinds ; many of
of great beauty. Also, store of fossils.
do hate all impostures and lies, insomuch as we
everally forbidden it to all our fellows, under pain of
ny or fines, that they do not show any natural work
g adorned or swelling, but only pure as it is, without
ion of showing marvels.

we have also those who take care to consider of the
labours and Collections, and out of them to direct
plorations . . . more penetrating into Nature than
ner. Upon every invention of value we erect
to the inventor, and give him a liberal and honour-
ward.

we have hymns and services, which we say daily, of
nd thanks to GOD for His marvellous works, and
of prayer imploring His blessing for the illumination
labours."—BACON, '*New Atlantis, a Work un-*
'

1. The first part of the document is a list of names and addresses of the members of the committee.

CHAPTER I.

INTRODUCTORY.

'A Museum of Nature does not aim, like one of Art, merely to charm the eye and gratify the sense of beauty and of grace.

'As the purpose of a Museum of Natural History is to . . . impart and diffuse that knowledge which begets the right spirit in which all Nature should be viewed, there ought to be no partiality for any particular class, merely on account of the quality which catches and pleases the passing gaze. Such a Museum should subserve the instruction of a People; and should also afford objects of study and comparison to professed Naturalists, so as to serve as an instrument in the progress of Science.'—

RICHARD OWEN, *On a National Museum of Natural History*, pp. 10; 11; 115.

hunting.—The Removal of the Sloane Museum from Chelsea. — Montagu House, and its History. — The Early Trustees and Officers. — The Museum Regulations. — Early Helpers in the Foundation and Increase of the British Museum. — Epochs in the Growth of the Natural History Collections. — Experiences of Inquiring Visitors in the years 1765—1784.

practical good sense which had always been a characteristic in the life of Sir Hans SLOANE is just as plainly in those clauses of his Will by which he gives much latitude, in respect of means and agencies, to the discretion of his Executors and Trustees. It is seen, for example, when, after reciting some views of his own as to the proper methods by which his Museum should be maintained

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for public use, he adds the proviso—‘in such manner as they (the Trustees) shall think most likely to answer the public benefit by me intended.’ He had a love for the old Manor House at Chelsea, and contemplated, as it seems, with some special complacency, the maintenance there of the Collections which had added so largely to the pleasures of his own fruitful life. But he was careful not to tie down his Trustees to the continuance of the Museum at Chelsea, as a condition of his bounty. They were at liberty to assent to its removal, should the balance of public advantage seem to them to point towards removal.

Chelsea was in that day a quiet suburban village, distant from the heart of London. As the site of a Museum it had many advantages, but it was, comparatively and to the mass of visitors and students, a long way off. The Trustees assented to a generally expressed opinion that whilst the new institution ought not to be placed in any of the highways of traffic, it ought to be nearer to them than it would be, if continued in its then abode.

One of the first places offered for their choice was the old Buckingham House (now the royal palace). It was already a large and handsome structure. The charm of its position, at that time, was not unduly boasted of in the golden letters of the inscription conspicuous upon its entablature—

‘Sic siti lætantur lares.’

Edmund,
Duke of
Buckingham,
& Duke of
Brewsbury.

Its prospects, as described not very long before by the late ducal owner, ‘presented to view at once a vast town, a palace, and a cathedral, on one side; and, on the other sides, two parks, and a great part of Surrey.’ Its fine gardens ended in ‘a little wilderness, full of blackbirds and nightingales.’ Yet it was close to the Court end of the town. But the price was thirty thousand pounds.

Another offer was that of Montagu House at Blooms-

Less charmingly placed, and architecturally less
ing in appearance than was its rival, both its situation
its plan were better fitted for the purposes of a public
um. It stood, it is true, on the extreme verge of the
on of that day. Northward, there was nothing
en it and the distant village of Highgate, save an
se of fields and hedgerows. And for a long distance,
to the east and the west, no part of London had yet
l beyond it, except an outlying hospital or two. But
were already indications that the town would extend
it northerly direction, more quickly than in almost
ther. The house had seven and-a-half acres of garden
hrubberies; and its price was but ten thousand, two
ed and fifty pounds.

Montagu House had been built about sixty years before
Alph MONTAGU, first Duke of Montagu. A spacious
separated the house from Great Russell Street,
ls which it presented to view only a screen of pan-
brickwork, having a massive gateway and cupola in
entre, and turreted wings, masking the domestic
, at either end. The house itself was rather stately
eautiful, but its chief rooms and its grand staircase
laborately painted by the best French artists of the
And the appendant offices were more than usually
ive.

stood on the site of a structure of much greater archi-
l pretensions, erected for the same owner, only
years before, from the designs of Robert HOOKE
first Montagu House had been burned to the
l.

offer of Montagu House was accepted by the Trus-
nd approved by the Government. It was found

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HOUSE AND
ITS HISTORY.

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needful to make considerable alterations in order to adapt the building to its new uses. This outlay increased the eventual cost of the mansion, and of its appliances and fittings, to somewhat more than twenty-three thousand pounds. The adaptation, with the removal and re-arrangement of the Collections, occupied nearly five years. It was not until the beginning of the year 1759 that the Museum was opened for public inspection. When removed to Bloomsbury, it was but brought back to within a few hundred yards of its first abode.

CONSTITUTION OF THE
MUSEUM

We have seen that according to the plan for the government of the institution which SLOANE had sketched in his Codicil of July, 1749, there would have been a Board of Visitors as well as a Board of Trustees. But, by the foundation Statute, enacted in 1753, both of these Boards were incorporated into one. Forty-one Trustees were constituted, with full powers of management and control. Six of these were representatives of the several families of COTTON, HARLEY, and SLOANE, the head, or nearest in lineal succession, of each family having the nomination, from time to time, of such representatives or 'Family Trustees,' when, by death or otherwise, vacancies should occur. Twenty were 'Official' Trustees, in accordance, so far, with SLOANE's scheme for the constitution of his Board of Visitors; and by these two classes, conjointly, the other fifteen Trustees were to be elected.

The Official Trustees were to be the holders for the time being of the following offices:—(1) The Archbishop of Canterbury, (2) the Lord Chancellor, (3) the Speaker of the House of Commons, (4) the Lord President of the Council, (5) the First Lord of the Treasury, (6) the Lord Privy Seal, (7) the First Lord of the Admiralty, (8 and 9)

secretaries of State, (10) the Lord Steward, (11) the Chamberlain, (12) the Bishop of London, (13) the Lord Treasurer of the Exchequer, (14) the Lord Chief Justice of the Common Pleas, (15) the Master of the Rolls, (16) the Lord Justice of the Common Pleas, (17) the Attorney-General, (18) the Solicitor-General, (19) the President of the Royal Society, (20) the President of the College of Physicians.

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The first three of these Official Trustees Parliament enacted the appointment, from time to time, of all the members of the Museum, except the Principal Librarian, to be appointed by the Crown, on the nomination of the 'Principal Trustees,' as the first three Trustees—Bishop, Chancellor, and Speaker—have always been

Act of
26 Geo. II.,
c. 22, Clauses
4—8.

The following fifteen persons were the first *elected* Trustees, under the Act of 1753 :—The Duke of Argyle, the Duke of Northumberland, Lord Willoughby of Parham, Lord Cavendish, the Honourable Philip Yorke, Sir George Osborn, Sir John Evelyn, James West, Nicholas Hardinge, Henry Sloane, William Sotheby, Charles Grey, the Rev. Dr. Thomas Birch, James Ward, and William Watkin. The first meeting of the Trustees under the Act was held in the Cockpit, Whitehall, on the 17th of December,

Records of
British
Museum, in
MS. ADDIT.,
6179.

The first 'Principal Librarian' * was Dr. Gowin KNIGHT, Master of the College of Physicians, and eminent, in his

The term 'Librarian,' as used at the British Museum, has never any *special* connection with the Books, printed or manuscript. The keepers of Departments were, originally, called 'Under Librarians.' The General Superintendent or Warden has always been called 'Librarian.'

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 P. I.
 ILLY
 STORY OF
 : BRITISH
 SKUM.

day, as a cultivator of experimental science. Some magnetic apparatus of his construction and gift was placed in the Museum soon after its opening, and attracted, in its day, much attention. He received the appointment after a keen competition with the more widely-known physician and botanist, Sir John HILL. The first three 'Keepers of Departments' were Dr. Matthew MATY, Dr. Charles MORTON, and Mr. James EMPSON. Dr. KNIGHT retained his post until 1772.

MATY and MORTON succeeded in turn to the office of Principal Librarian, and their respective services will have a claim to notice hereafter. EMPSON had been the valued servant and friend of Sir Hans SLOANE. He is the only officer whose name appears in SLOANE's Will. He had served him as Keeper of the Museum at Chelsea for many years.

There is, in one of the letters of Horace WALPOLE to Sir Horace MANN, an amusing account of an initiatory meeting of the original Trustees, held prior to their formal constitution by Parliament. It is marked by the writer's usual superciliousness towards all hobbies, except the diletante hobby which he himself was wont to ride so hard. 'I employ my time chiefly, at present,' he wrote to MANN, in February, 1753, 'in the guardianship of embryos and cockle shells. Sir Hans SLOANE valued his Museum at eighty thousand pounds, and so would anybody who loves hippopotamuses, sharks with one ear, and spiders as big as geese. . . . We are a charming wise set—all Philosophers, Botanists, Antiquarians, and Mathematicians—and adjourned our first meeting because Lord MACCLESFIELD, our Chairman, was engaged in a party for finding out the Longitude.'

One of our number,' continues WALPOLE, 'is a Moravian who signs himself "Henry XXVIII, Count de s." The Moravians have settled a colony at Chelsea, Hans' neighbourhood, and I believe he intended to Count Henry the Twenty-Eighth's skeleton for his um.' This distinguished foreigner does not appear in the parliamentary list.

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The Chairman of the preliminary meeting so airily rebuffed by WALPOLE, continued, under the definitive sanction of the Trust, to take a leading part in its admission. It appears to have been by Lord MACCLESFIELD the original 'Statutes and Bye-laws' of the Museum, many of them, were drafted.'

In the form in which they were first issued, in 1759, the statutes directed that the Museum should 'be kept open every day in the week, except Saturday and Sunday.' For the greater part of the year the public hours were from nine o'clock in the morning until three o'clock in the afternoon.

THE REGULATIONS FOR
ADMISSION
AND STUDY.
1759-1803.

On certain days, in the summer months, the open hours were from four o'clock in the afternoon until eight—enough to meet the requirements of persons actively engaged in business during the early part of the day. But the public was hampered by a system of admission-tickets which had to be applied for on a day precedent to that of every subsequent visit. The application had first to be made, then approved; a second application had to follow, in order to obtain the ticket; and the ticket could rarely be used at the time of receiving it. So that, in practice, each visit to the Museum had commonly to be preceded by two visits to the Porter's Lodge.'

MS. ADDIT.,
6179, ff. 36,
seqq.

visitors were admitted in parties, at the prescribed times, and were conducted through the Museum by the Porter according to a routine which, practically and usually,

K II.
 P. I.
 ILY
 STORY OF
 I. BRITISH
 MUSEUM.

rules and
 regulations,
 s. II, § 2.

I. APPENDIX,
 2, 28
 176.

allowed to each group of visitors only one hour for the inspection of the whole. Special arrangements, however, were made for those who resorted to the Museum for purposes of study. To such, say the statutes, 'a particular room is allotted, in which they may read or write without interruption during the time the Museum is kept open.'

The aggregate number of persons admitted as visitors—exclusive of students—was, for some years, restricted to sixty persons, as a maximum, in any one day.

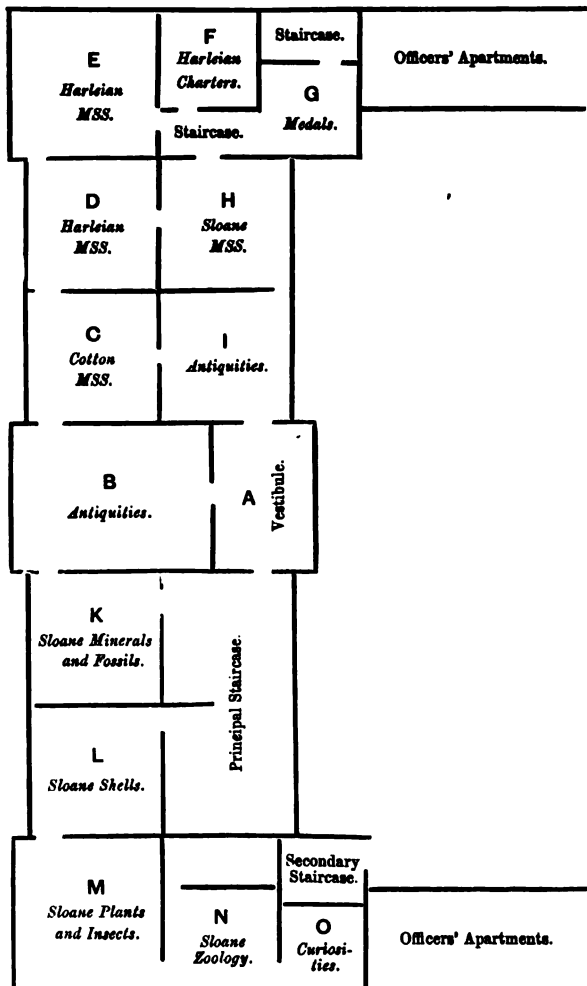
In order to give the reader a definite and clear idea of what was seen, in 1759, by the earliest visitors to the British Museum, in its rudimentary state, some sort of ground plan is essential, but the merest outline will suffice for the purpose.

There were at Montagu House two floors or stories of state apartments. The upper floor was that which was first shown, after the formation of the Museum.

The visitor, having ascended the superb staircase painted by LA FOSSE, passed through a vestibule and grand saloon (*A B*) furnished with various antiquities, into the 'Cottonian Library' (*C*), and thence into the 'Harleian Library,' which occupied three rooms (*D*, *E*, and *F*). He then entered the 'Medal Room'—containing the coins and medals of the SLOANE and COTTON collections (*G*); the 'SLOANE Manuscript Room' (*H*); and the room containing the chief part of the antiquities (*I*)—

h Diagram, showing Principal Floor of the original British Museum of 1759.

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on the visitor, passing again through the vestibule and great saloon (B), entered the rooms K, L, and

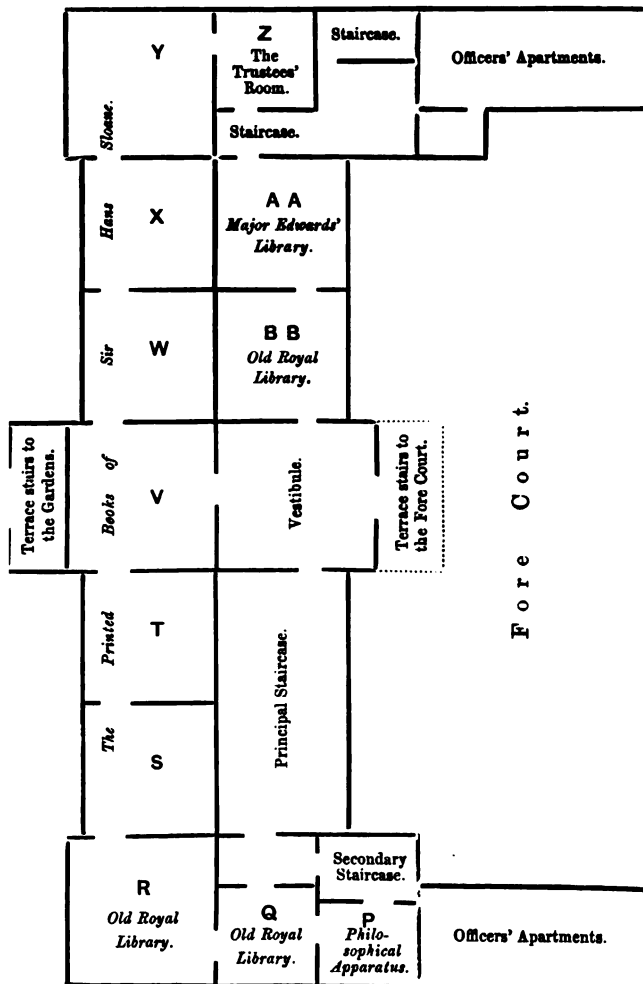
K II,
 N. L.
 LY
 TORY OF
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 MUM.

M. *K* contained the minerals and fossils of Sir Hans SLOANE's collection; *L*, the shells; *M*, the plants and insects. Thence he passed into *N*, which was devoted to the bulk of the SLOANE Zoological Collection, and into *O*, containing artificial and miscellaneous curiosities.

Descending to the floor beneath, by the secondary staircase between *N* and *O*, the visitor then entered the small room *P*, which contained the magnetic apparatus given by Dr. Gowin KNIGHT, and the rooms, *Q* and *R*, devoted to the reception of the greater part of the Royal Library, restored by HENRY, Prince of Wales, and augmented—but with extreme parsimony—by several of the Stuart monarchs, whose additions to the shelves were, indeed, much oftener made of books given, than of books bought. He then passed into SLOANE's Printed Library, which occupied the whole of the spacious and handsome suite of rooms *S*, *T*, *V*, *W*, *X*, and *Y*, and (passing through the 'Trustees' Room *Z*,) entered the room *A A*, containing the EDWARDS Library; ending his tour of inspection in the room *B B*, in which was arranged the remainder of the old Royal Library, the main portion whereof had been seen already in *Q* and *R*.

h Diagram, showing Ground Plan of the original British Museum of 1759.

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the combined Museum and Libraries, thus arranged, it opened to the inspection of the curious Public

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EARLY
HELPERS IN
THE FOUNDA-
TION AND
GROWTH OF
THE BRITISH
MUSEUM.

1755-57.

1759.
DA COSTA'S
HEBREW
COLLECTION.
—HISTORY
OF THE
COLLECTOR.

*Correspond-
ence of
Thomas
Hollis.*

in 1759, the collections enumerated in the Foundation Act of 1753 had, it is seen, already received some notable increase by gifts. The first donor was the House of Lords, by whose order the historical collections of Thomas RYMER, royal historiographer, and editor of the *Fœdera*, were given to the Trustees, immediately after their incorporation. Then followed, in 1757, the gift of the Royal Library and that of the Lethieullier Antiquities from Egypt. [See Chapter II.]

The next donor, in order of time, was a Jewish merchant, and stock-broker, of humble origin, but of princely disposition. Solomon da Costa was one of the many men who have done honour to commerce not merely by its successful prosecution, but by the conspicuous union of mercantile astuteness with noble tastes and true beneficence. His talents for business enabled him to make a hundred thousand pounds—which in his day was more, perhaps, than the equivalent of four hundred thousand in ours. He had made it, says a keen observer, who knew the man well, ‘without scandal or meanness.’ When wealth made him independent, he spent his new leisure, not in luxury but in hard labour for the poor.

DA COSTA had come, from Amsterdam, into England, in the year 1704. His struggling Hebrew compatriots were among the earliest sharers in his bounty. But his heart was too large to suffer that bounty to be limited by considerations either of race or of local neighbourhood. To him, as to the Samaritan of old, distress made kinship. He was wont to journey, from time to time, through thirty or forty parishes of Surrey and of Kent, with the punctual diligence of a commercial traveller, simply to succour the distressed by that best of all succour, the provision of means through which, in time, self-help would be developed and ensured. Provident loans, clothing-funds, the educa-

and apprenticeship of necessitous children, were the
 s in which DA COSTA's benevolence delighted to in-
 not only his money, but his personal exertion and his
 al sympathy. He devoted more than a thousand
 ds a year to the benefit of Christian Englishmen,
 es all that he gave to the poor of his own faith and

And to both he gave, without noise or ostentation.
 had, too, the breadth of view which enabled him to
 on their true foot of equality, the claims of the neces-
 mind, as well as those of the necessitous body.
 e many other men of genuine beneficence, popular
 ates of giving did not mislead him into one-sidedness
 1.

thin a few years of DA COSTA's arrival in England,
 bly about the year 1720, and when, with youthful
 r, he was seeking to acquire knowledge as well as to
 money, he met, at a bookseller's, with a remarkable
 ion of Hebrew books, of choice editions and in rich
 niform bindings. The collection had that sumptu-
 s of aspect which invited inquiry into its origin. All
 e could learn on that score was the probability that
 statesman or other of the Commonwealth period, had
 ed them for a public but unfulfilled purpose, and
 ey had fallen—with so much other spoil—into the
 of CHARLES THE SECOND. By that King's order
 ad received, if not their rich binding, at least his
 and cypher as marks of the royal appropriation, and
 in a truly Carolinian fashion) were left in the hands
 King's stationer for lack of payment of the charge
 it—whether binding or mere decoration—had been
 o the books by the royal command. DA COSTA
 them as among his chief treasures, but directly he
 of the foundation of a great repository of learning,

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the emotions of the Jewish broker were such as might have been felt by 'broad-browed VERULAM,' could he have lived to see that day; save only that BACON would first have scanned the evidence about the origin of the institution, and would have discriminated the praise.

Da Costa to
the Trustees
of the Brit.
Museum,
1759 [1759].

DA COSTA wrote a letter to the Trustees. The generous heart is facile in ascribing generosity. 'A most stately monument,' said DA COSTA, 'hath been lately erected and endowed, by the wisdom and munificence of the British Legislature,' and he accompanied his eulogy with a prayer that the Almighty would 'render unto them a recompense, according to the work of their hands.' He brought his mite of contribution, he added, not only as proof of sympathy with the work in progress, 'but as a thanksgiving offering, in part, for the generous protection and numberless blessings which I have enjoyed under the British Government.'

The gift embraced several Biblical Manuscripts of value, and a still choicer series of early printed books, one hundred and eighty in number. The giver has a merited place in the roll of our public benefactors; and his devout prayer for the new Museum, 'May it increase and multiply . . . to the benefit of the people of these nations and of the whole earth,' has had a more conspicuous fulfilment than could, in 1759, have been imagined by the most sanguine of bystanders.

LIST OF THE
THOMASON
COLLECTION
OF ENGLISH
BOOKS OF
141-1662, BY
GEORGE III.

Three years afterwards, and soon after his accession to the throne, KING GEORGE THE THIRD gave to the Nation that most curious assemblage of nearly the whole English literature of two and twenty eventful years of Civil War,—open or furtive,—which is known to the Public as the 'Thomason Collection,' though its technical name within

the Museum walls continues, as of old, to be 'the King's

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name is the less appropriate from its tendency to
an inaccurate idea of the contents of the King's gift,
as from its disregard of the origin of the Collection.
tracts' include the most ponderous theological quartos
ever came from an English press as well as the tiniest
bill, or the fugitive circular which called together a
committee of Sequestrators' at Wallingford House.

George THOMASON, its collector, was an eminent London
printer, of royalist sympathies, who watched intensely
the progress of the great struggle between King and Par-
liament, Cavalier and Roundhead, and who had noted with
national keenness how strikingly the printing press was
the mirror, almost from day to day, the strife of
the king in council, as well as that of soldiers in the

GEORGE
THOMASON
AND HIS
LABOURS.

He had seized, in 1641, the idea of helping
the king the better to realize every phase of the great
struggle, the oncoming of which many men had long
foreseen, by gathering everything which came out in
the way as far as vigilant industry could do so—whether
applying to literature, and to the obvious materials of
the war, or merely subserving the most trivial need of the
moment. He failed, of course, to secure every-
thing, but his endeavour was wonderfully successful, on the
whole. He also gathered many manuscripts which no printer
would have dared to put into type. And he obtained a
number of political and historical pieces, bearing on
the times, which had issued from foreign presses;
the authors being sometimes foreign observers of the
times, but more frequently British refugees.

THE KING THE FIRST congratulated THOMASON on the
success of his idea. More than once the King was able to

gratify his curiosity by borrowing some tract or other which only our collector was known to possess. The Parliament, meanwhile, was far from exhibiting any literary sympathies in the undertaking. Some of its leaders loved freedom of the press when it was seen to be a channel for urging forward their peculiar doctrines and aims, but had the gravest doubts about its policy when it manifestly helped their opponents and gave back blow for blow. The 'Thomason Collection' came to be viewed, at length, much in the light in which soldiers view an enemy's battery. If it could be captured and carried off, some of the pieces might be turned against the enemy. If the attempt at complete capture should miscarry, a sudden sally might at least enable the assailants to destroy what they had failed to secure.

Hence it was that the poor Collector came to be in such alarm about the possible fate of his treasures that he had them repeatedly packed into cases, and, as the successes of the war veered to and fro, sent them, at one time, far to the south of London; at another time, as far to the east; now, smuggled them, concealed between the real and false tops of tables, into a city warehouse; and anon made a colourable sale of them to the University of Oxford.

When the King enjoyed his own again, the Collection was offered, as fit to be made a royal one. It contained more than thirty-three thousand separate publications—bound in about 2,200 volumes—issued between 1640 and 1662 inclusive. But CHARLES THE SECOND was busied with pursuits having little to do with any kind of learning, and was ill inclined, as we have seen already, to burden his Treasury for the enrichment of his Library. Sir Thomas BODLEY's Trustees at Oxford refused the offer, in their turn, under a very different but scarcely less obstructive

re. Their excellent founder had formed peculiar ringent views about the literature worthy of a great city. He had warned them against stuffing his with 'mere baggage books.' And so future in curators had, in another age, to buy with large notes many things which their predecessors could ought with small silver coins;—just as in the story.

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unfortunate Collection went a-begging. The books from hand to hand, somewhat, it would seem, by pledge or mortgage. They had cost a large sum y, and a larger amount of toil. When his expecta-re at their best the first owner, it is said, refused thousands of pounds for them. His ultimate suc-in the possession were glad, in 1762, to accept, at ds of King GEORGE THE THIRD, three hundred

THE AC-
QUIREMENT
OF THE
THOMASON
COLLECTION
BY GEORGE
III.

The purchase was recommended to him by Thomas and also by Lord BUTE, as a serviceable addition ewly founded Museum. As all readers now know, regely subserved our history already. It is not less hat the 'Thomason Collection' embodies a store of ion yet unused.

1762.

next augmentor of the Museum was one of its , Gustavus BRANDER, distinguished as a promoter l science, and more especially of mineralogy and ology in the early stages of their study in England. kable collection of fossils found in Hampshire, in lon Clay, was given by Mr. BRANDER to the Public, ving been, at his cost, carefully examined and l by Dr. SOLANDER. It was the first notable con-to the grand series of specimens in palæontology 1 their combination, have made the British Museum

THE
BRANDER
FOSSILS.

1766.

334 THE ORGANIZERS, AND EARLY AUGMENTORS.

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the most important of all repositories in that department of science.

To the Zoological Collections, the additions made, whether by gift or by purchase—save as the result, more or less direct, of ‘Voyages of Discovery,’ which will be noticed presently—were for many years very unimportant. The first purchase worthy of record was a collection of stuffed birds, formed in Holland, and acquired, in 1769, for four hundred and sixty pounds. This purchase was made by the Trust.

The reign of GEORGE THE THIRD is marked by very few characteristics which are more honourable, both to King and people, than is its long series of expeditions to remote countries made expressly, or mainly, for purposes of geographical and scientific discovery, and extending over almost the whole of the reign.

ACCESSIONS
ACCRUING
FROM VOY-
AGES OF
DISCOVERY.
1760-1820.

Scarcely one voyage of the long series failed to bring, directly or indirectly, some valuable accession or other to the Collection of Natural History. Sometimes such accessions came to the Museum as the gifts of the navigators and explorers themselves. In this class of donors the name of Captain James Cook,* and that of Archibald MENZIES, occur both early and frequently. Sometimes they came as the gifts of the Board of Admiralty. Sometimes, again,—and not infrequently—as those of the King, who, in his best days, took a keen interest in enterprise of this kind, and delighted in talking with the captains of the discovery ships about their adventures, and about the marvels of the far-off lands they had been among the first to see. Nor did the King stand alone in his active encouragement of remote ex-

* One of Cook's many individual gifts was the first Kangaroo ever brought into Europe.

ons. Many of the great and wealthy nobles gave us furtherance to them, and were equally ready to make available for scientific study the new specimens which they brought home. In this way, for example, the Duke of ROCKINGHAM gave to the Museum a curious collection of reptiles gathered in Surinam.

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In the same manner was furnished that minor, but very interesting and instructive, collection illustrating the rude arts and modes of life of the newly explored countries, which yet among us can remember as occupying the 'South Room' of the old house. In the course of years it might be eclipsed by much better collections of the same kind elsewhere, and so to wear a meagre and somewhat insignificant aspect. But it had rendered good service in its day, as the germ of what will become, it may be hoped, in the future, an ethnological collection worthy of a seafaring

regards the Natural History Collections, the growth of the Museum may be said to have been mainly dependent on the Voyages of Discovery for more than forty years. A new source of improvement seems to mark, distinctively, the beginning of a second epoch in the history of those collections. Then followed a second epoch, marked by some approach to systematic improvement, in all branches, by means of the purchase of entire private collections as opportunity offered. This period may be dated from the acquisition of the collections and other gatherings of Sir Joseph BANKS in 1767. Banks's splendid gift was soon followed by so many others—sometimes as donations, more frequently as purchases—that for many years the liberality of benefactors superseded the liberality of Parliament. Only of late years has it been said that the public support of the Natural History Museum has been worthy, either of the Nation or of their

EPOCHS IN
THE GROWTH
OF THE
NATURAL
HISTORY
COLLECTIONS.

own intrinsic importance to it. By degrees, statesmen have become convinced that such collections are much more than the implements of a knot of professed naturalists, and the toys of the public at large. Slowly, but surely, the economic and commercial value of a great museum of natural history, as well as its educational value, have come saliently into view. And a wise enlargement of the contributions from national funds has had the excellent result of stimulating, instead of checking, the benefactions of individuals.

Some of the particular steps by which so conspicuous an improvement has been gradually brought about will claim our notice hereafter, in their due order.

If, for a long series of years, the degree of liberality with which these varied collections were shown to the Public at large scarcely accorded, either with their origin, or with the purpose for which they had been avowedly combined, it should be borne in mind that 'the Public' of 1759 was a very different body from the Public of a century later. It is only by degrees that indiscriminate admission to museums has come to be either very useful or quite feasible. There was a good deal of warrant in 1759 for the opinion recorded by one of the Trustees when the Rules were first under discussion. 'A general liberty,' said Dr. John WARD, the eminent Gresham Professor, 'to ordinary people of all ranks and denominations, is not to be kept within bounds. Many irregularities will be committed that cannot be prevented by a few librarians who will soon be insulted by such people [as commit abuses], if they offer to control or contradict them.' But, after all, the inadequate strength of the staff was the main cause of such of the restrictions as were chiefly complained of.

original regulations, with but small change, remained in force for about forty-five years. How they will be best and most briefly shown by citing the notices of two or three notable visitors, at various times, during the last century.

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MUSEUM.

1765, Peter John GROSLEY, an accomplished and keen-
enough man, familiar with the Museums of Italy as well
as those of his own country, visited the new Museum,
and recorded his impressions of it. With the building he
was struck. He had already seen many parts of Eng-
land, but nowhere any house that he thought worthy to be
compared with Montagu House. He calls it 'the largest,
the most stately, the best arranged, and most richly deco-
rated structure of its kind in all England. He made re-
peated visits. What chiefly arrested his attention in the
History rooms were the beauty of the papilionacea
displayed, he thought, 'all that either the old world
or new can supply in this kind'—and the strangeness of
mineral specimens brought from the Giant's Cause-
way in Ireland. The Printed Books he thought to be 'the
chief part of this vast collection.' In one of the prin-
cipal rooms, 'I saw,' he continues, 'not without astonish-
ment, a very fine bust of Oliver CROMWELL, occupying a
prominent place!' He praises the courtesy with which
HARRIS and MORTON discharged, by turns, the duty of
showing. 'They show,' he says, 'the most obliging
effort to explain things to the visitor, but,' he adds,
in various truth, 'their very courtesy is wont to make
him never content himself with hasty and unsatisfactory
answers that he may not trespass on their politeness.' And
he makes a wise practical suggestion, which was
brought into effect, almost half a century afterwards.
In order really to carry out the intentions of Parlia-

GROSLEY'S
ACCOUNT OF
THE MUSEUM
IN 1765.

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ment,' writes GROSLEY, in 1765, 'it is to be wished that the Public should be admitted more liberally, and more easily, by placing a warder in every room, to be continually present during the public hours.'

MS. Addit.,
10,555, fol. 14.

VISIT OF
C. P. MORITZ
IN 1782.

Ten years afterwards, the difficulty on this score had so increased that a notification to the following effect was circulated: 'British Museum, 9th August, 1776. The Applicants of the middle of April are not yet satisfied. Persons applying are requested to send weekly to the porter to know how near they are upon the List.'

In 1782, the plan had so far improved that instead of waiting from April until August, a visitor could usually get admission within a fortnight or so after applying for a ticket. We have an intelligent and amusing account of a visit then made. This time the narrator is a German,—Charles MORITZ, of Berlin. 'In general,' writes MORITZ, 'you must give in your name a fortnight before you can be admitted. But, by the kindness of Mr. WOIDE'—a countryman of the traveller, and, at that time, an Assistant-Librarian in the Museum,—'I got admission earlier. . . . Yet, after all, I am sorry to say that it was the room, the glass-cases, the shelves, . . . which I saw; not the Museum itself, so rapidly were we hurried on through the departments. The company who saw it when I did, and in like manner, was variously composed. They were of all sorts, and some, as I believe, of the very lowest classes of the people of both sexes, for, as it is, the property of the Nation, every one has the same 'right'—I use the term of the country—to see it that another has. I had Mr. WENDEBORN'S book in my pocket, and it, at least, enabled me to take more particular notice of some of the principal things.'

WENDE-
BORN'S
ACCOUNT
OF THE
MUSEUM.
1790-90.

The book thus referred to by MORITZ is the German

nal of that account of English society and institutions h WENDEBORN himself translated, a few years afterwards, into English, and published at London, under the of *A View of England*.

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author had settled in London as the Minister of a
ian Congregation. He was himself a studious fre-
ter of the Museum, and says of it: 'The whole is
, worth seeing, and honourable to the Nation; when
altogether it has not its equal. When considered in
parate branches, almost each of them singly may be
ssed by some other collection even in England itself.'
he only collection which he specifies as, in this sense,
or, are the Hunterian Museum, and that which had
formed by Sir Ashton LEVER, and which, when the
of *England* was written, belonged to Mr. PARKINSON.
e Museum Library, WENDEBORN says, 'though a
ous and valuable collection, it is yet, in many re-
very deficient, and as to its use, much cir-
ribed.'

Wendeborn,
*A View of
England*,
vol. i, 323-
325.

en the German visitor of 1782 pulled Mr. WEN-
n's book from his pocket, as he was hurried
h the Museum, the action attracted the atten-
the other visitors. The more intelligent of them
l round him to see if the book could be made
l any information for their behoof also. And the
r gratified their curiosity by translating a passage
in explanation of the objects they were passing.
ame an exquisite bit of sub-officialism.

gentleman who conducted us,' observes MORITZ,
ittle pains to conceal the contempt which he felt for
munications when he found it was only a German
tion of the British Museum which I had.' 'So rapid
ge,' he continues, 'through a vast suite of rooms,

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 THE
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 THE BRITISH
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in little more than one hour of time, with opportunity to cast but one poor longing look of astonishment on all the vast treasures of nature, antiquity, and literature, in the examination of which one might profitably spend years, confuses, stuns, and overpowers the visitor.'

WILLIAM
 HUTTON'S
 SIT IN
 84.

Two years later, we have a similar account of the experiences of an inquisitive Englishman, and of one who is much more outspoken in his complaint. William HUTTON, the historian of Birmingham, came to London in December, 1784. 'I was unwilling to quit it,' he writes, 'without seeing what I had, many years, wished to see. But how to accomplish it was the question. I had not one relative in that vast metropolis to direct me. . . . By good fortune, I stumbled upon a person possessing a ticket for the next day, which he valued less than two shillings. We struck a bargain in a moment and were both pleased. . . . I was not likely to forget Tuesday, December 7th, at eleven.' HUTTON, shrewd as he was, did not suspect the real nature of his 'bargain.' He had met with a professional dealer in Museum tickets; one of several who, on a humbler scale, followed in the steps of Peter LEHEUP, but were lucky enough not to excite the anger of the House of Commons.

He was taken through the rooms in company with about ten other persons, at a very rapid rate. He asked their conductor for some information about the curiosities. 'The reply, he says, so humbled him that he could not utter another word. 'The company seemed influenced. They made haste and were silent. No voice was heard but in whispers. If a man spends two minutes in a room, in which a thousand things demand his attention, he cannot bestow on them a glance apiece. . . . It grieved me to

how much I lost for want of a little information. In thirty minutes we finished our silent journey through princely mansion, which would well have taken thirty

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. I had laid more stress on the British Museum, than on anything else which I should see in London. As the only sight which disgusted me. Government purchased this rare collection at a vast expense, and its it as a national honour. . . . How far it answers and proposed this account will testify.'

Hutton,
*A Journey to
London*,
pp. 187-196.

After days were at hand. But it was not until 1805 the rules of admission were even so far effectively as to abolish the traffic in tickets. Nor was any synopsis of the contents of the Museum provided until

In that year admission tickets were abolished

v.

attained means of maintenance have, at all times, had more to do with any inadequate provision for publicness of which (in days long past) there may have been rounded cause of complaint, than had neglect or fault on the part of any officer.

Officers, too, were, for a very long period after establishment of the Museum, engaged, and related, only for an attendance, in rotation, for two days, on alternate days. A largely increased on by Parliament was the essential condition of large increase in the accessibility of the insti-

Early as in 1776 the necessary expenditure in salaries alone (at a very low scale of payment), exceeded annual income (£900) accruing from the original endowment. After Parliament had made an additional provision—first introduced in a clause of what was then

OK II,
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 E BRITISH
 'SEUM.

called a 'hotch-potch Act'—averaging £1000 yearly, the total annual income was still but £2448, including the yearly three hundred pounds accruing from the 'EDWARDS Fund,' and the £248, paid, under the grant of GEORGE THE SECOND, as the net yearly salary of the 'King's Librarian.' For a considerable period, the sums expended in purchases—for all the departments collectively—had not amounted, in any one year, to one hundred pounds.

E CAREER
 DR.
 TTHEW
 TY.

On the decease of the first Principal Librarian, Dr. GOWIN KNIGHT, in 1772, Dr. MATTHEW MATY was appointed to that office. He was born at, or in the neighbourhood of Utrecht, in 1718, and was educated in the University of Leyden, where he took his degrees in 1740, the subject of his inaugural dissertation, for that of M.A. and Doctor of Philosophy, being 'custom,' and its wide results and influence social and political. His essay was published (under the title *Dissertatio philosophica inauguralis de Usu*.) in 1740. For the degree of Doctor in Medicine, he treated of the effects of habit and custom upon the human frame (*De Consuetudinis efficacia in corpus humanum*). This medical dissertation was also published at Leyden, in the usual form, in the same year. Both essays showed much ability, along with many faults and crudities. Some of these became matters of conversation and correspondence between the author and his friends. The subject was less hacknied than that of the majority of academical essays, and MATY was induced to reconsider it. He republished the result of his thoughts, in a greatly improved form, in the following year at Utrecht, and, to gain a wider audience, wrote in French. The *Essai sur l'Usage* attracted much attention, and served to pave the way for the establishment by its

or, eight years afterwards, of the periodical entitled, *Journal Britannique*, as editor of which he is now best remembered. He came to England in 1741, practised as physician, attained considerable reputation, and distinguished himself more especially by following in the path of Hans SLOANE, and others, as an earnest supporter of the practice of inoculation. In this field he was able to render good service, both by his professional influence and by his pen. In the sharp controversies which soon, for a time, impeded the new practice, he took a large part, and his publications on the subject are distinguished from many others by their union of moderation of tone and vigour of advocacy.

MATY's predilections, however, pointed to a literary rather than to a medical career. He had early taken that path, which was not easily effaced. Within six years (1750—he published eighteen volumes of the *Journal Britannique*—edited in London but printed at the Hague—the labours of which he was, according to GIBBON, almost exhausted. GIBBON, too, bears testimony to the amiability of the man, as well as to the industry of the writer. His first and youthful achievement in literature had MATY's encouragement and active aid. When the *Essai sur l'état de la Littérature* was, after much filing and polishing, presented to the Public, a preliminary letter from MATY's pen accompanied it, and by him the essay was carried through the press.

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EARLY
HISTORY OF
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MUSEUM.

*Memoirs of
Gibbon,
p. 107.*

When he succeeded Dr. Gowin KNIGHT, as Principal Librarian in 1772, his health was already failing. He held the post during less than four years. To the close of his pen was busily employed. He was a contributor to several foreign journals, as well as to the *Philosophical Transactions*, some volumes of which he edited, or assisted

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 TORY OF
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to edit, in his capacity as one of the Secretaries of the Royal Society, to which office he had been appointed in 1765. Among his minor literary publications are a life of BOERHAAVE, in French, and one of Dr. Richard MEAD, in English. At the time of his death he was working on the *Life of Lord Chesterfield*, afterwards prefixed to the collective edition of the Earl's *Miscellaneous Works*. Dr. MATY died in 1776, and was succeeded in his Librarianship by his colleague, Dr. Charles MORTON, who had had, from the beginning, the charge of the department of Manuscripts, and had also acted as Secretary to the Trustees.

TICE OF
 CHARLES
 MORTON,
 HIS
 PRINCIPAL
 LIBRARIAN.

Dr. MORTON was a native of Westmoreland, and was born in 1716. Until the year 1750 he had practised as a physician at Kendal. In 1751 he became a Licentiate of the College of Physicians, and in the following year a Fellow of the Royal Society. His service in the British Museum lasted from 1756 to 1799. There are several testimonies to the courtesy with which he treated such visitors and students as came under his personal notice, but his long term of superior office was certainly not marked by any striking improvement in the public economy of the Museum. And how much room for improvement existed there the reader has seen. Dr. MORTON, like his predecessor, was one of the Secretaries of the Royal Society. He filled that office from the year 1760 to 1774. He contributed several papers to the *Philosophical Transactions*, as well on antiquarian subjects as on topics of physical science, and he was the first editor of Bulstrode WHITELOCKE's remarkable narrative of his embassy to Sweden during the Protectorate. MORTON's writings are not remarkable either for vigour or for originality, but, on more topics than one, they had the useful result of setting abler men awork. He was three times married: (1) to

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BERKELEY, the niece of SWIFT's frequent correspondent Lady Elizabeth GERMAINE ; (2) to Lady SAVILE ; Mrs. Elizabeth PRATT. He died on the 10th Feb- 1799.

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his successors in the office of Principal Librarian account will be found in the Introductory Chapter of III.

CHAPTER II.

A GROUP OF CLASSICAL ARCHÆOLOGISTS AND EXPLORERS.

‘The Archæologist cannot, like the Scholar, carry on his researches in his own Library, independent of outward circumstances. For *his* work of reference and collation he must travel, excavate, collect, arrange, delineate, transcribe, before he can place his whole subject before his mind.

‘A Museum of Antiquities is to the Archæologist what a Botanic Garden is to the Botanist. It presents his subject compendiously, synoptically, suggestively, not in the desultory and accidental order in which he would otherwise be brought into contact with its details.’—

C. T. NEWTON, *On the Study of Archeology*, p. 26.

Sir William HAMILTON and his Pursuits and Employments in Italy.—The Acquisitions of the French Institute of Egypt, and the capture of part of them at Alexandria.
—*Charles TOWNELEY and his Collection of Antiquities.—The Researches of the Earl of ELGIN in Greece.*
—*The Collections and Writings of Richard PAYNE KNIGHT.*

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To the comparatively small assemblage of antiquities which originally formed part of the Museum of COURTEN and of SLOANE, several additions had been made—besides the coins, medals, and bronzes of Sir Robert COTTON—prior to the opening of the British Museum to the Public in 1759. Some of those additions were the gift, severally, of three members of the LETHIEULLIER family. Others were

of Thomas HOLLIS, who became a constant benefactor to the Museum almost from the day of Sir Hans Sloane's death to that of his own.

LETHIEULLIER antiquities had been chiefly gathered together. The first gift was made by the Will of Colonel James LETHIEULLIER, dated 23rd July, 1755. And the first catalogue of any kind which was prepared for the Museum, after its acquisition by Parliament, was a list of these antiquities drawn up by Dr. John WARD, one of the Trustees. And here it may deserve remark that for many years after the foundation not a few of the Trustees bore a large share in the actual work of preparing the Museum for public use, as well as in the ordinary duties of management and administration.

The first gift of Colonel William LETHIEULLIER, his cousin, James LETHIEULLIER, and his nephew, Pitt LETHIEULLIER, consisted of several additions between the years 1756 and 1770. James LETHIEULLIER, one of these gentlemen, when receiving, as executor, the personal thanks of a Committee of the Trustees (February, 1756), for the bequest so made, took the opportunity of augmenting it by the gift of some antiquities which he had himself collected during his residence at Grand Cairo.

The first large and comprehensive addition in the Egyptian department was that made in 1772 by the Earl of Pembroke, by means of a Parliamentary grant, of the Museum of Antiquities, which had been formed during seven years' residence in Italy by Sir William HAMILTON, our Ambassador at Naples.

William HAMILTON was among the earliest of British Egyptologists who, by a voluntary choice, turned to good account their talents in the interests of learning and of the public, the

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THE
EGYPTIAN
ANTIQUITIES
OF THE
LETHIEULLIERS.

MS. Addit.,
6179, f. 29.

SIR WILLIAM
HAMILTON
AND HIS
CAREER AT
NAPLES.

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opportunities which diplomatic life so frequently offers for amassing treasures of literature and science, and (in many cases) for saving them from peril of destruction. In that path Frenchmen had showed the way many generations earlier.

As far, indeed, as regards a public and national care for matters of the intellect, France is far better entitled to claim a priority in the proud distinction of 'teaching the nations how to live,' than is any other country in the world. It is to her immortal honour that from a very early period, and even in times of sore trouble, her sovereigns and her statesmen have known how to turn public resources to the promotion of public culture, as well as of national power. A man may read in French diplomatic letters of instruction of the sixteenth century orders to collect manuscripts and antiquities, as implements of public education, such as he would look for in vain in parallel British documents of any century at all,—inclusive of the present;—although it is certain that the omission has by no means arisen from the engrossment of our diplomatists in weightier concerns.

In Sir William HAMILTON's case the liberal tastes and the mental energy of the individual supplied the defect of his instructions. He set an example which not a few of our ambassadors have voluntarily followed with like public spirit, and with results not less conspicuous.

William HAMILTON was the fourth son of Lord Archibald HAMILTON, youngest son of James, third Duke of HAMILTON, K.G. His mother, Lady Jane HAMILTON, was of that illustrious family by birth, as well as by marriage, being the daughter of James, sixth Earl of ABERCORN. He was born in the year 1730.

towards the close of his career, Sir William would some-
say to his intimates, when conversation turned upon
title of life: 'I had to begin the world with a great
and one thousand pounds for all my fortune.' But
world never used him very roughly. Whilst still a
man (1755) he married Miss BARLOW, the wealthy
of Hugh BARLOW, of Laureenny Hall, in Pembroke-
She brought him an estate, in the neighbourhood
of Ince, worth nearly five thousand pounds a year; but
his happy lot to have married a true wife, not a bag
woman. DUCLOS, who saw much of the HAMILTONS in
family circle at Naples in after years, was wont to
say 'They are the happiest couple I ever saw.'

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HAMILTON was sent to the Court of Naples in 1764. 1764-1800.
At first, in that day, was not overburdened with business.
For some years to come the new Ambassador found
Neapolitan society little to his taste. He was intel-
ligent, and, in the truest sense, an English gentleman.
One of society at that time in Naples was both frivo-
lous and dissolute. He had to form, by slow degrees, a
circle in which a man of cultivated tastes might enjoy social
life. The public duties of the embassy could employ but
a small portion of his time, and the temper of the man
adapted to employment to him a necessary of life. He threw
his energies into hard study. And he possessed that hap-
py mental characteristics, an equal love of the natural
sciences, and of the world of art and of books. He could
find like enjoyment, on the deep things of Nature,
and the secrets of 'the antiquary times.' And in both
he knew how to make his personal enjoyments seem
of public good.

His first labours were given to the exhaustive research
of antiquarian phenomena. He amazed the fine gentlemen of

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Naples by setting to work as though he had to win his bread by the sweat of his brow. He laboured harder on the slopes of Vesuvius than an exceptionally diligent craftsman would labour in a factory—had Naples possessed any. Within four years he ascended the famous mountain twenty-two times. More than one of these ascents was made at the risk of his life. He made, and caused to be made, innumerable drawings of all the phenomena that he observed, showing the volcanic eruption in all its stages, and under every kind of meteorological condition. He formed too a complete collection of volcanic products, and of the earths and minerals of the volcanic district. When he had studied Vesuvius under every possible aspect, he went to Etna.

The results of these elaborate investigations were sent, from time to time, to the Royal Society (of which Mr. HAMILTON was made a Fellow, after the reading of the first of his papers in 1766), and they were published in the *Philosophical Transactions*, between the years 1766 and 1780. They were afterwards collected, and improved, in the two beautiful volumes entitled *Campi Phlegrei*, and were lavishly illustrated from the drawings of F. A. FABRIS, who had been trained by HAMILTON to the work.* The collection of volcanic geology and products was given to the British Museum in 1767.

THE
HAMILTON
MUSEUM OF
ANTIQUITIES.

These geological labours had been diversified, at intervals, by the collection of a rich archæological museum, and by the establishment of a systematic correspondence on antiquarian subjects with men of learning in various parts

* In a copy of this work now before me, the original drawings are bound up with the engravings, and later drawings are added. They serve to show that Sir William's scientific interest in the subject lasted as long as his life.

kingdom of the Two Sicilies. This correspondence or its object, not merely the enrichment of his own museum, but the awakening of local attention throughout the country to its antiquities and history; matters which heretofore been but too much neglected—in the Neapolitan fashion.

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of the earliest and choicest acquisitions made by BORGONONE in the early years of his residence at Naples was the acquisition of vases belonging to the senatorial family of CARACALLA, many of which had been gathered from sepulchral and excavations in Magna Græcia. This purchase, begun in 1766 and afterwards largely increased, may be regarded as the substantial beginning of the noble series of vases now so prominent a part of our National Museum.

There had been formed, by degrees, at Naples, a museum which at the beginning of the year 1772, included seven hundred and thirty fictile vases; a hundred and seventy-five bronzes; about three hundred specimens of ancient sculpture (including three of the most perfect cinerary urns known at that time, to have been discovered); six hundred and twenty-seven bronzes, of which nearly one-half illustrated the arms and armour of the ancients; more than two hundred specimens of sacrificial, domestic, and architectonic objects and implements; fourteen bassi-relievi, busts, medals, and inscribed tablets; about a hundred and fifty precious pieces of ancient ivory, including a curious tessaræ; a hundred and forty-nine gems, chiefly of the East; a hundred and forty-three personal ornaments, of various kinds, in gold; a hundred and fifty-two fibulæ in various materials; and more than six thousand coins and medals comprising a considerable series from the towns of Magna Græcia.

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PUBLICA-
TION OF THE
'ANTIQUITÉS
ETRUSQUES.'

The first fruits of this noble collection was the publication, commenced in the year 1766, of the work entitled *Antiquités Etrusques, &c.*, with admirable illustrations, and with a descriptive text, written in French by D'HANCARVILLE. The first edition of this costly book was issued at Naples. It naturally attracted great attention. No such collection of fictile vases—in their combination of number and beauty—had been theretofore known.

The two volumes published at Sir William's cost in 1766, were followed by two other volumes in 1767. All of them were executed with great care and with lavish expenditure. But the later edition, printed at Florence—long afterwards—is in many points superior.*

Whilst the volumes were still incomplete, Mr. HAMILTON circulated proof plates of the work with great liberality. Some of these proofs were lent to our famous English potter, Josiah WEDGWOOD, and gave a strong impulse to his taste and artistic zeal. But they excited an eager longing for access to the vases themselves, as the only satisfactory models.

Meteyard,
*Life of Josiah
Wedgwood*,
vol. ii, p. 72.

Wedgwood to
Bentley,
10 May, 1770.

When WEDGWOOD wrote to his friend and partner, BENTLEY;—'Mr. HAMBLETON, you know, has flattered the old pot-painters very much,' one feels that for the moment that excellent man's prepossessions had been rubbed a little, against the grain. But he shows directly that there is no real intent to impeach the Editor's honesty in the matter. He has, no doubt,' adds WEDGWOOD, 'taken his designs from the very best vases extant,' which was precisely what it was his duty to do, since selection was the task in hand, not the publication of seven hundred specimens.

* That superiority, however, is only partial. The original Naples edition, along with many errors, contains much valuable matter omitted in the reprint.

3 Collection—far more remarkable than any, of its which had yet come to England—was brought over 2, and offered to the Trustees of the British Museum. peal was made to Parliament, and the first grant of money, worthy of mention, was now made in order acquisition. The sum given to Mr. HAMILTON was housand four hundred pounds.

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7 soon one of the incidental results of the acquisition and to the Public much more than its cost—leaving account altogether the best returns which accrue ich Collections—is among the familiar annals of our rce. Josiah WEDGWOOD told à Committee of the of Commons that, within two years, he had himself t into England, by his imitations of the Hamilton 1 his manufactory at Etruria, about three times the ich the Collection had cost to the country.

he beginning of the year 1772 Mr. HAMILTON was Knight of the Bath. He returned to Naples soon e transfer of his antiquities to the Museum, and ere was busily engaged in new explorations at Pompeii Herculaneum. He sent to the Society of Anti- in 1777, an interesting account of the discoveries peii, which is printed in the fourth volume of the *logia*. At Herculaneum he employed, during many father Antonio PIAGGI to superintend excavations ce drawings, and gave him an annual salary equal idred pounds sterling, after vainly endeavouring— time—to urge on the Neapolitan Government its y to carry on the task in an adequate manner for our of the nation, and to publish the results of the ions for the general benefit of learning.

THE EX-
PLORATIONS
AT POMPEII
AND HERCU-
LANUM.

William's services as an ambassador were rendered l and with credit, as opportunity offered. But the

opportunity, in his earlier period, was comparatively rare. It was, perhaps, despite the proverb, not altogether a happy thing for Naples that its annals were tiresome. The rust of inactivity showed itself there, as so often elsewhere, to be much more fatal than the exhaustion of strife. Certainly, to the ambassador, it was a personal misfortune that, when the affairs of Naples became really momentous to Englishmen, the vigour and the will of earlier days were then departing from the man whose energies were at length to be put to the test in the proper sphere of his profession. Meanwhile, and in his prime, he had but—from time to time—to make routine memorials as to matters of individual wrong; to heal breaches between one Bourbon and another; and to secure the neutrality of the Kingdom of the Two Sicilies during the war which grew out of the struggle in America. Such matters made no great inroad upon the pursuits of the naturalist and the antiquarian.

Labour on the mountains, in the excavations, and in the study, had been, now for many years, relieved by congenial friendships. There had been an improvement in the tone of Neapolitan Society since HAMILTON's first appearance. And all that was best in Naples had gathered round him. To English travellers his hospitalities were splendid and unremitting. But in 1782 the circle lost its mistress. Seven years before, Sir William and Lady HAMILTON had been bereaved of a daughter—their only child. In 1783 occurred the dreadful earthquake in Calabria, the greatest calamity of the century save that at Lisbon.

Among the scientific correspondents in England with whom Sir William HAMILTON kept up an intercourse was Sir Joseph BANKS, then the President of the Royal Society.

m was sent the fullest account that was attainable of
id event of 1783.

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had chanced that just before the news reached Naples,
Joseph had written to HAMILTON about some experi-
and discoveries on the composition and transmutation
ter. He had said, jestingly: 'In future we philo-
rs shall rejoice when an eruption, which may swallow
few towns, affords subsistence for as many nations
mals and vegetables.' This letter HAMILTON was
to answer when he received the intelligence from
ia.

e have had here,' he writes, 'some shocks of an earth-
which, in Calabria Ultra, has swallowed up or
yed almost every town, together with some towns in

. . . . Every hour brings in accounts of fresh
rs. Some thousands of people will perish with hunger
the provisions sent from hence can reach them. 'This,
ze, will prove to have been the greatest calamity that
ppened in this century. An end is put to the
il. The theatres are shut. I suppose Saint Janu-
ill be brought out.' There had been no exaggeration

1783.
Feb. 18.

e first reports. It was found that at Terranova, not
re all the buildings destroyed, but the very ground
h they stood sunk to such a depth as to form a sort

Hamilton to
Banks, MS.
Addit., 8967.
ff. 34, seqq.

In that district alone 3043 people lost their lives.
ninara 1328 persons were buried beneath the
In other and adjacent districts more than 3300
perished.

'84 the ambassador visited England. His stay was
But an incident which occurred during this visit
colour to the rest of his life.

791 Sir William HAMILTON was made a Privy
or, and in the same year (nine years after the death

✓

356 THE ORGANIZERS, AND EARLY AUGMENTORS.

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HAMILTON'S
FIRST AC-
QUAINTANCE
WITH
NELSON.

of his first wife) he married Emma HARTE, whom he had first met in the house of his nephew, Colonel GREVILLE, in 1784. In September, 1793, his eventful acquaintance with NELSON was formed.

In that month, NELSON had been sent to Naples with despatches from Admiral Lord HOOD, in which Sir William HAMILTON was pressed to procure the sending of some Neapolitan troops to Toulon. After his first interview with Lord HOOD's messenger, he is said to have remarked to his wife: 'I have a little man to introduce to you who will become one of the greatest men England has ever had.' 'The favourable impression was reciprocal, it seems.' The ambassador gave such good furtherance to the object of NELSON's mission, that the messenger, we are told, said to him, 'You are a man after my heart. I'm only a captain, but, if I live, I shall get to the top of the tree;' while, of the too-fascinating lady into whose social circle he was presently brought, Nelson wrote to his wife, 'She is a young woman of amiable manners, who does honour to the station to which she is raised.' Several years, however, were yet to intervene before the events of the naval war and the political circumstances of Naples itself brought about a close connexion in public transactions between the great seaman and the British ambassador, whose long diplomatic career was drawing to its close.

Clarke and
McArthur,
*Life, &c., of
Nelson*, vol. i,
p. 133; and
Nicolas, vol. i,
p. 336.

HAMILTON, after the manner of Collectors, had scarcely parted with the fine Museum, which he had sold to the Public in 1772, before he began to form another. The explorations of the buried cities gave some favourable opportunities near home, and his researches were spread far and wide. In amassing vases he was especially fortunate. And, in that particular, his second Collection came to surpass the

He became anxious to ensure its preservation in
ity. With that view he offered it to the King of
ia.

think,' he wrote to the Countess of LICHTENAU, in
1796, 'my object will be attained by placing my
tion, with my name attached to it, at Berlin. And I
rsuaded that, in a very few years, the profit which the
ill derive from such models will greatly exceed the
of the Collection. The King's [porcelain] manufac-
ould do well to profit by it. . . . For a long time
have had an unlimited commission from the Grand
of Russia [afterwards PAUL THE FIRST], but, between
es, I should think my Collection lost in Russia ;
at Berlin, it would be in the midst of men of
g and of literary academies.

ere are more,' he continues, 'than a thousand vases,
e half of them figured. If the King listens to your
d, he may be assured of having the whole Collection,
ould further undertake to go, at the end of the war,
in to arrange them. On reckoning up my accounts,
st speak frankly (*il faut que je dise la vérité*),—I
t I shall needs be a loser, unless I receive seven
d pounds sterling for this Collection. That is
the sum I received from the English Parliament for
Collection.* . . . As respects Vases, the second is
e beautiful and complete than the series in London,
e latter included also bronzes, gems, and medals.'
e negotiation thus opened led to no result. And
e the choicest contents of this second Museum
entually lost by shipwreck.

that in this statement—made twenty-four years after the date
nsaction referred to—Sir William's memory misled him. The
f the Parliamentary vote was (as I have stated it, on a previous
it thousand four hundred pounds.

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THE SECOND
HAMILTON
COLLECTION
OF VASES.

Sir W.
Hamilton to
the Countess
of Lichtenau,
8 May, 1796.

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 EXPLORES.

When the correspondence with Berlin occurred, the Collector's health was rapidly failing him. The political horizon was getting darker and darker. Victorious France was putting its pressure upon the Neapolitan Government to accept terms of peace which should exact the exclusion of British ships from the Neapolitan ports. The ambassador needed now all the energies for which, but a few years before, there had been no worthy political employment. They were fast vanishing; but, to the last, Sir William exerted himself to the best of his ability. It was his misfortune that he had now to work, too often, by deputy.

THE LATER
 EVENTS AT
 NAPLES,
 1796-1799.

Lady HAMILTON's ambitious nature, and her appetite for political intrigue, when combined with some real ability and a good deal of reckless unscrupulousness as to the path by which the object in view might be reached, were dangerous qualities in such a Court as that of Naples. If, more than once, they contributed to the attainment of ends which were eagerly sought by the Government at home, and were of advantage to the movements of the British fleet, they cost—as is but too well known—an excessive price at last. The blame fairly attachable to Sir William HAMILTON is that of suffering himself to be kept at a post for which the infirmities of age were rapidly unfitting him. But there he was to remain during yet four eventful years; quitting his embassy only when, to all appearance, he was at the door of death.

Between the September of 1793 and that of 1798 NELSON and Sir William HAMILTON met more than once; but their chief communication was, of course, by letter. When, in October, 1796, after two victories in quick succession, NELSON lost his hard-won prizes, and narrowly escaped being taken into a Spanish port, it was to HAMILTON that he wrote for a certificate of his conduct. And one of the ambassa-

latest diplomatic achievements was his procuring access for British ships to Neapolitan ports before the Battle of Nile was won.

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On the very night of that famous first of August, 1798, Sir William—whilst the distant battle was yet raging—learned of the disappointment which had followed the efforts, current during many days at Naples, of a defeat of the French fleet in the Bay of Alexandretta, and lost to him of his own confidence that the rumours, though unfounded, would come true at last. Five weeks afterwards, he had the satisfaction of sending to London the official account of the great victory which he had seen with the eye of faith.

At Naples the authentic news was received with a joy which worked like frenzy. When the ambassador first appeared before the Queen, after its arrival, she was rushing up and entering the room of audience, and embracing every person who entered it—man, woman, or child. He sent to NELSON a full account of the universal joy. ‘You have now, indeed, become yourself immortal,’ was his own greeting. On the next day they again met, on board the *Vanguard*, in the Bay. On the 21st of the following December Sir William Hamilton accompanied the King and Court of Naples in a light to Palermo.

Sir W.
Hamilton
to Nelson;
Nicolas,
vol. iii, p. 72.

The events of 1799 belong rather to history than to biography. Sir William HAMILTON’s chief share in them was his exertions to obtain for NELSON the large powers which the King of NAPLES vested in the English Admiral, and the results so mingled. On the 21st of June he embarked with NELSON on board the *Foudroyant*, and sailed with the squadron to Naples. In the stormy interview between NELSON and Cardinal RUFFO, Sir William acted as mediator. In all that followed, he seems to have been more a spectator than an actor. At the close of the year

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DEPARTURE
FROM
NAPLES.

Miss Knight
to Lady
Berry, July 2,
1800.

SIR WILLIAM
HAMILTON'S
LAST DAYS.

he joined with NELSON in the vain endeavour to induce the King to return to Naples, while that course was yet open to him.

On the 10th of June, 1800, Sir William took his final leave of Naples, which had been his home for thirty-six years, and where he had mingled in a departed world. In company with the Queen and three princesses, the HAMILTONS sailed in the *Foudroyant* for Leghorn, on their way to Vienna. A few days after the embarkation, a fellow-passenger writes thus: 'Sir William HAMILTON appears broken, distressed, and harassed. He says that he shall die by the way, and he looks so ill that I should not be surprised if he did.' When the Admiral struck his flag (13th July) at Leghorn, the party set out for Vienna. Between Leghorn and Florence, Sir William's carriage met with an overturn, which increased his malady. At Trieste the physicians were inclined to despair of his life. But he rallied sufficiently to reach England at last, and the change from turmoil to rest prolonged his life for two years to come.

During the long interval between the acquisition of the first Hamilton Museum and the return of its Collector to his country, he had marked his interest in the national Collection by repeated and valuable gifts. To make yet one gift more—trivial, but possessing an historical interest—was one of his last acts. On the 12th of February, 1803, he sent to the British Museum a Commission given by the famous fisherman of Amalfi to one of his insurrectionary captains. On the 6th of April Sir William HAMILTON died, in London. He was buried at Milford Haven.

The kindly heart had left many memorials of its quality at Naples. The ambassador had lost a part of his fortune.

many poor dependants, in his old home, enjoyed pen-
from his liberality.

NELSON, when writing to the Queen of the Two Sicilies
the death of their common friend, made this remark
is testamentary arrangements :—‘The good Sir Wil-
did not leave Lady HAMILTON in such comfortable
nstances as his fortune would have allowed. He has
it amongst his relations. But she will do honour
memory, although every one else of his friends calls
‘against him on that account.’ This comment, how-
expresses rather a temporary feeling than a wise judg-

Sir William had settled a jointure of seven hundred
is a year upon his widow.

ring the few months of life that yet remained to the
seaman himself, the highest encomium known to
cabulary was to say, ‘So-and-so was a great friend
William HAMILTON.’

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EXPLORERS.

Nelson to the
Queen of
Naples
(Nicolas,
vol. iv, p. 84).

the British Museum owes one choice portion of its
logical treasures to the man who was NELSON’S
f friendship, so also it owes—indirectly—another
of them to the man who was NELSON’S favourite
n, and whose very name, in the Admiral’s mind,
to sum up all that was most detestable. The Battle
Nile, and the military operations which followed it in
er years, would have counted no antiquarian riches
st their trophies, but for that ardent love of science
OLEON which prompted him to plan the ‘Institute of
as an essential part of the Campaign of Egypt.

intention with which the Institute of Egypt was
d embraced every kind of study and research. The
s of whom it was composed included within their
men of the most varied powers. What they effected

THE ‘INSTI-
TUTE OF
EGYPT,’ AND
ITS RE-
SEARCHES
AND ACQUI-
SITIONS.

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ARCHÆOLOGICAL
TRAVELS AND
EXPLORERS.

was fragmentary, and yet their researches, directly or indirectly, bore much fruit.

In the end, the harvest was to France herself none the less abundant from the fact that NELSON'S achievement, and what grew thereout, set Englishmen and Germans to work with increased vigour in the same field, and divided some of the tools.

1798-1801.

*Mémoires sur
l'Égypte,
vol. i.*

Scarcely had General BONAPARTE established the military power of the French Republic in Egypt, before he was employed in organizing the Institute at Cairo. Its declared object was twofold: (1) the increase and diffusion of learning in Egypt itself; (2) the examination, study, and publication, of the monuments of its history and of its natural phenomena, together with the elucidation and improvement of the natural and industrial capabilities of the country. The Institute was composed of thirty-six members, and was divided into four sections. The section with which alone we are here concerned—that of Literature, Arts, and History—was headed by DENON, and amongst its other members were DUTERTRE, PARSEVAL, and RIPAULT. Its labours began in 1798, and were continued, with almost unparalleled activity, until the summer of 1801, when the defeat of BELLIARD near Cairo, and the capitulation of MENOUE at Alexandria, placed that part of the collections of the Institute which had not been already sent to France at the disposal of Lord HUTCHINSON.

DENON, on his return from Upper Egypt to Cairo, said, with French vivacity, that if the active movements of the Mamelukes now and then forced an antiquary to become, in self-defence, a soldier, the antiquary was enabled, by way of balance and through the good nature and docility of the French troops, to turn a good many soldiers into antiquaries. Had it not been for this general sympathy and

less, one can hardly conceive that so much could have accomplished, even under the eye of NAPOLEON, the perils so incessant. The *Description de l'Égypte* is a task of no small magnitude, no less than for NAPOLEON and the men

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who set to work, a monument which might well atone for the momentary mortification attendant on the removal to London of a part of the treasures of the Institute.

History, ancient or modern, scarcely offers a parallel case in which war was made to contribute results so solid, both for the progress of science and for the moral improvement of the invaded country. To the Institute initiated by NAPOLEON, and partially carried out by the Institute of Egypt, the ablest of the recent rulers of Egypt owe some of their best and latest inspirations.

It is a whit less true that the most successful of our modern Egyptologists have followed the track in which the French men led the way. Such results, indeed, can never be expected to justify an unprovoked invasion. But they illustrate in a marvellous way, how temporary evil is wrought during good.

The sixteenth article of the Capitulation of Alexandria, provided that the Members of the Institute of Egypt carry back with them all instruments of science and such as they had brought from France, but that all col-

lections of marbles, manuscripts, and other antiquities, as well as the specimens of natural history and the drawings in the possession of the French, should be regarded as public property, and become subject to the disposal of the generals of the allied army.

A Convention was made between General MENOU and

General HOPE, on the 31st of August, 1801. Against the sixteenth article MENOU made the strongest remonstrance, but General HOPE declined to modify it, other-

THE CON-
VENTION OF
ALEXAN-
DRIA.
1801,
August.



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wise than by agreeing to make a reference, as to the precise extent to which it should be carried into actual effect, to Lord HUTCHINSON, as Commander-in-Chief.

Between MENOU and HUTCHINSON there was a long correspondence. The French General declared that the Collections, both scientific and archæological, were private, not public property. 'The since famous 'Rosetta stone,' for example, belonged, he said, to himself. Various members of the Institute claimed other precious objects; some alleged, with obvious force of argument, that the care bestowed on specimens of natural history made them the property of the collectors and preservers; others threatened to prefer the destruction or defacement of their collections, by their own hands, to the giving of them up to the English army.

THE NEGOTIATIONS
AND SERVICES OF
COLONEL
TURNER.

The correspondence was followed by several personal conferences between MENOU and Colonel (afterwards General) TURNER, in order to a compromise. TURNER, who was himself a man of distinguished knowledge and accomplishments, advised Lord HUTCHINSON to insist on the transfer of the Marbles and Manuscripts, and to yield the natural history specimens, with some minor objects, to the possessors. The astute Capitan Pasha had contrived to place himself in 'possession' of one of the most precious of the marbles—the famous sarcophagus which Dr. CLARKE so strenuously contended to be nothing less than the tomb of ALEXANDER—by seizing the ship on board of which the French had placed it, and he gave Colonel TURNER almost as much trouble as MENOU himself had given.

The French soldiers were, as was natural, deeply mortified when they heard that the captors of Alexandria were to have the antiquities. Every man of them who had had to do with their excavation or transport had vindicated

N's eulogy by his pains to protect the sculptures from

Now, their excessive zeal and their national pride
an unworthy result. The Rosetta stone was stripped
soft cotton cloth and the thick matting in which it
een sedulously wrapped, and was thrown upon its
Other choice antiquities were deprived of their wooden

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When TURNER, with a detachment of artillerymen
strong tumbril, went to the French head-quarters to
the Rosetta stone, he had to pass through a lane of
Frenchmen who crowded the narrow streets of
Adria, and were not sparing in their epithets and sar-

CAPTURE OF
THE ROSETTA
STONE;

Those artillerymen, too, were the first English
s who entered the city. When Colonel TURNER had
safely into his hands the stone destined to mark an
philology, he returned good for evil. He permitted
members of the Institute of Egypt to take a cast of
h they sent to Paris in lieu of the original.

Rosetta inscription had been found, by the French
rs, among the ruins of a fortification near the mouth
Rosetta branch of the Nile. When they discovered
tone was already broken, both at the top and at the
de. Of its triple inscription, commemorative of the
ng of the actual and personal reign of PTOLEMY
NES—and therefore cut nearly two hundred years
he Christian era—that in the hieroglyphic or sacred
er had suffered most. The second or enchorial in-
n was also mutilated in its upper portion. The
version was almost entire.

scarcely less famous Alexandrian sarcophagus was
y the French in the court-yard of a mosque called
osque of St. Athanasius.' Of its discovery and state
und, the following account is given in the *Descrip-*
l'Egypte:—A small octagonal building, covered

AND OF THE
SARCOPHA-
GUS SOME-
TIMES
CALLED
'TOMB OF
ALEXANDER.'

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*Description
de l'Égypte,*
vol. v, pp. 373,
seqq. ; Plates
and Append.
(8vo edit.),
1829.

LIST OF THE
EGYPTIAN
ANTIQUITIES
EMBARKED
AT ALEXAN-
DRIA.

with a cupola, had been constructed by the Moslems for their ablutions, and in this they had placed the sarcophagus to be used as a bath ; piercing it for that purpose with large holes, but not otherwise injuring it. The sarcophagus is a monolith of dark-coloured breccia—such as the Italians call *breccia verde d'Egitto*—and is completely covered with hieroglyphics. Their number, according to the French artist by whom impressions in sulphur were taken of the whole, exceeds 21,700. Dr. CLARKE's identification of this monument as the tomb of Alexander has not been supported by later Egyptologists.

This sarcophagus, with most of the other antiquities, was sent on board the flagship *Madras*. The Rosetta inscription, Colonel TURNER embarked, with himself, in the frigate *Egyptienne*. His own list of the antiquities thus brought, in safety, to England runs thus :—(1) An Egyptian sarcophagus, of green breccia ; (2) another, of black granite, from Cairo ; (3) another, of basalt, from Menouf ; (4) the hand of a colossal statue—supposed to be Vulcan—found in the ruins of Memphis ; (5) five fragments of lion-headed statues, of black granite, from Thebes ; (6) a mutilated kneeling statue, of black granite ; (7) two statues, of white marble, from Alexandria—Septimus Severus and Marcus Aurelius ; (8) the Rosetta stone ; (9) a lion-headed statue, from Upper Egypt ; (10) two fragments of lions' heads, of black granite ; (11) a small kneeling figure, of black granite ; (12) five fragments of lion-headed statues, of black granite ; (13) a fragment of a sarcophagus, of black granite, from Upper Egypt ; (14) two small obelisks, of basalt, with hieroglyphics ; (15) a colossal ram's head. Nos. 10 to 15 inclusive were all brought from Upper Egypt. (16) A statue of a woman, sitting, with a model of the capital of a column of the Temple of Isis at Dendera, between her feet ; (17) a fragment of a lion-headed statue, of black



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, from Upper Egypt; (18) a chest of Oriental Manuscripts—sixty-two in number—in Coptic, Arabic, and Turkish.

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we have given the more careful detail to this notice of the logical results of the capitulation of Alexandria, inasmuch as a very inaccurate statement of the matter has found its way into an able and deservedly accredited book. Sir John ALISON, in his *History of Europe* (probably from a misconception of the compromise effected between J.M.W. TURNER and the French Commander-in-Chief), writes thus:—‘General HUTCHINSON, with a generous regard to the interests of science and the feelings of these distinguished persons [the Members of the Institute of Egypt], refused to depart from the stipulation and allow these treasures of art to be forwarded to France. The sarcophagus of ANKERSMITH, now in the British Museum, was, however, taken by the British, and formed the glorious trophy of a memorable triumph.’

See the
*History of
Europe*, vol. v.,
p. 596 (last
edition).

General TURNER’S conspicuous service on this occasion ended with the transport into England of the Alexandrian collections. Before the Rosetta inscription was, by General’s command, placed, together with its companions, in the British Museum, as their permanent abode, General Hutchinson obtained Lord BUCKINGHAMSHIRE’S assent to the voluntary deposit of the stone from Rosetta in the custody of the Society of Antiquaries, by whose care copies of the inscription were sent to the chief scholars and academies of the Continent, in order that combined study might be brought to bear, fully and completely, upon the contents. This circumstance makes it all the more honourable to our countryman, Dr. Thomas Young, that by his labours upon the stone a strong impulse was given to the progress of hieroglyphical discovery. The accessions from Alexandria served, also, to initiate

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1804,
 July 2.

*Parliamen-
 tary Debates*
 vol. ii, col.
 901, seqq.

another improvement. When, in 1802, they reached the Museum, its contents had so increased that the old house afforded no adequate space for their reception. They had, like some famous sculptures of much later acquisition, to be placed in sheds which scarcely preserved them from bad weather, and were even less adapted to facilitate their study. The Trustees made their first application to Parliament for the enlargement of the Museum Building, 'in order to provide suitable room for the preservation of invaluable monuments of antiquity which had been acquired by the valour, intrepidity, and skill of our troops in an expedition seldom equalled in the annals of the country.' And before presenting their petition they determined that increased facilities should be given for the admission of the Public, as soon as they should be enabled to make an adequate increase in the staff of the establishment.

When the extension of the British Museum came first to be discussed in the House of Commons (somewhat grudgingly and captiously it must, in truth, be acknowledged), upon the application of the Trustees, some of their number were already aware that an accession was likely soon to accrue through the munificence of a fellow-trustee, which would make a new and extensive building indispensable. Charles TOWNELEY had already made a Will in virtue of which—as it stood in 1804—the Towneley Marbles were devised in trust for the British Museum, on condition that the Trustees thereof should, 'within two years from the time of the testator's decease, set apart a room or rooms sufficiently spacious and elegant to exhibit these antiquities most advantageously to the Public,—such rooms to be exclusively set apart for the reception and future exhibition of the antiquities aforesaid.' Circumstances not foreseen in 1802, when Colonel TOWNELEY's Will had been first

led afterwards to a change in the mode in which his Collection was to be received by the Public. But its vation and public accessibility, in one way or other, ng been resolved upon.

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TOWNELEYS, of Towneley, rank among the most t and distinguished commoners of Lancashire. They ace an honourable descent to a period antecedent to nquest. They have been seated at Towneley from elfth century. Several of them have given good to England, in various ways, in spite of the obstacles scouragements which, for many generations, clave to every man whose convictions obliged him to adhere Roman Catholic Church, and so to incur the pains abilities of recusancy. Of these they had their full

One TOWNELEY had been mulcted in fines amount- more than five thousand pounds, simply for remain- e to his belief, and had been, for that cause, sent n ingenuity of torment one is almost tempted to call y) from prison to prison across the breadth of Eng- nd back again.* Another TOWNELEY was driven exile which lasted so long that when he returned ncashire everybody had forgotten his features and e, except his dog. But neither fine, imprisonment, nishment, had converted them to Protestantism. it was that Charles TOWNELEY, the Collector of the , received his education at Douay, and contracted

John Towneley was sent first to Chester Castle, then to the a in Southwark, then to York Castle, and to a block-house in om Yorkshire he was sent to the Gatehouse at Westminster, e to a jail in Manchester. From his Lancashire prison he was hustled into Oxfordshire, and sent thence to another prison The gallant old recusant survived it all, to die at Towneley at

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LIFE OF
CHARLES
TOWNELEY.

all the strong formative impressions of early life and habit on the Continent.

He was born, in the old seat of the family at Towneley Hall, on the 1st of October, 1737. His father, William TOWNELEY, had married Cecilia, sole daughter and heir of Richard STANDISH, by his wife Lady Philippa HOWARD, daughter of Henry, Duke of NORFOLK. The hall—which has not yet lost all its venerable aspect—was built in part by a Sir John TOWNELEY in the reign of HENRY VIII, and its older portions (turrets, gateway, chapel, and library) suit well the fine position of the building, and the noble woods which back it. Of the founder two things still remain in local tradition and memory. He took the changes made under the rule of HENRY—or rather of Thomas CROMWELL—so much in dudgeon, that when Lancaster Herald came to Towneley, upon his Visitation, he refused to admit him, saying, ‘Do not trouble thyself. There are no more gentlemen left in Lancashire now than my Lord of DERBY, and my Lord MONTEAGLE.’ The other tradition of this same Sir John is, that he enclosed a common pasture called Horelaw, and so made the peasantry as angry with his innovations as he was with CROMWELL’S. Some of their descendants may yet chance to assure the inquisitive stranger, that his ghost still haunts the park, crying aloud in the dead of night—

‘Lay out! lay out! *
Horelaw and Hollingley Clough!’

At Douay Charles TOWNELEY received a careful education, moulded, of course, under the conditions and the memories of that celebrated College. When he left its good priests he was already the owner of the family estates—his

* Lancastrian for ‘throw open.’

having died prematurely in 1742—and he was
ed, at once, into the gaieties and temptations of Paris.
e Mentorship he had was that of a great uncle who had
ie sufficiently naturalised to win the friendship of
VIRE, and to be able to turn *Hudibras* into excellent

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h. The dissipations of the Capital overpowered, for a
the real love of classical studies which had been ex-
in the provincial college. But the seed had been sown
ood soil. The study of art and of classical archæology,
icular, presently reasserted its claims and renewed its
ions. It was a fortunate circumstance, too, that
affairs required the presence of Mr. TOWNELEY in
nd on the attainment of his majority.

had left Towneley very young. He came back to it
more of the foreigner than of the Englishman in his
of life and manners. But he was able to win the
e regard of his neighbours, and to take his fair share
r pursuits and sports, although he could never—at
n his own estimation—succeed in expressing his
ts with as much ease and readiness in English as in
. Late in life, he would speak of this conscious
y with regret. Whether needfully or not, the feeling,
bt, prevented Mr. TOWNELEY from turning to literary
; his large acquirements.

t he had seen of the Continent had given him a
o see more of it, and the bias of his youthful studies
in the same direction. In 1765, after a short stay
ce, he went into Italy, and there he passed almost
ars. They were passed in a very different way from
which he had passed the interval between Douay
vneley. That long residence abroad enabled him to
a very conspicuous benefactor to his country.
isited Naples, Florence, and Rome, and from time



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TOWNELEY'S
ARTISTIC
RESEARCHES
IN ITALY.
1765-1778.

to time made many excursions into various parts of Magna Græcia and of Sicily. At Naples he formed the acquaintance of Sir William HAMILTON and of D'HANCARVILLE. At Rome he became acquainted with three Englishmen, James BYRES, Gavin HAMILTON, and Thomas JENKINS, all of whom had first gone thither as artists, and step by step had come to be almost exclusively engrossed in the search after works of ancient art. The success and fame of Sir William HAMILTON's researches in the Kingdom of the Two Sicilies and of those, still earlier, of Thomas COKE of Holkham (afterwards Earl of Leicester), had given a strong impulse to like researches in other parts of Italy. TOWNELEY caught the contagion, and was backed by large resources to aid him in the pursuit.

His first important purchase was made in 1768. It was that of a work already famous, and which for more than a century had been one of the ornaments of the Barberini Palace at Rome. This statue of a boy playing at the game of tali, or 'osselets' (figured in *Ancient Marbles in the British Museum*, part ii, plate 31), was found among the ruins of the Baths of Titus, during the Pontificate of URBAN THE EIGHTH. During the same year, 1768, Mr. TOWNELEY acquired, from the Collection of Victor AMADEI, at Rome, the circular urn with figures in high relief—which is figured in the first volume of Piranesi's *Raccolta di Vasi Antichi*—and also the statue of a *Nymph of Diana*, seated on the ground. This statue was found in 1766 at the Villa Verospi in Rome.

FORMATION
OF THE
TOWNELEY
GALLERY.

Two years afterwards, several important acquisitions were made of marbles which were discovered in the course of the excavations undertaken by BYRES, Gavin HAMILTON, and JENKINS, amidst the ruins of Hadrian's Villa near Tivoli. The joint-stock system, by means of which the

ings were effected, no less than the conditions which accompanied the papal concessions that authorised them, facilitated a wide diffusion of the spoil. But whenever making of a desirable acquisition rested merely upon ability of purse or a just discrimination of merit, Mr. JEFFREY was not easily outstripped in the quest. Amongst additions of 1769-71 were the noble Head of *Athenes*, the Head said, conjecturally, to be that of *Laus*, and the 'Castor' in low relief (all of which are in the second part of *Ancient Marbles*).

Two terminal heads of the bearded *Bacchus*—both of which of remarkable beauty—were obtained in 1771 from the site of Baia. These were found by labourers who were digging a deep trench for the renewal of a vineyard, and were seen by Mr. ADAIR, who was then making an excursion from Naples. In the same year the statue of *Antinous* and that of a *Faun* (*A. M.*, ii, 24) were purchased for the Collection in the Macarani Palace at Rome. In the *Diana Venatrix* and the *Bacchus and Ampelus* found near La Storta. It was by no fault of TOWNE that the *Diana* was in part 'restored,' and that sparingly. He thought restoration to be, in some cases, possible; but never deceptively; never when doubtful about the missing part. In art, as in life, he gave the heraldic motto '*Tenez le vrai*.'

In 1771, also, the famous '*Clytie*'—doubtfully so—was purchased from the Laurenzano Collection at Naples.

A curious scenic figure on a plinth (*A. M.*, part x), as well as many minor pieces of sculpture, were found at Fonseca Villa on the Cælian Hill in 1773. In the year many purchases were made from the Mattei Collection at Rome. Amongst these are the heads of

I, I. CAL. OLO-ND IERS. *Marcus Aurelius* and of *Lucius Verus*. And it was at this period that Gavin HAMILTON began his productive researches amidst the ruins of the villa of Antoninus Pius at Monte Cagnolo, near the ancient Lanuvium. This is a spot both memorable and beautiful. The hill lies on the road between Genzano and Civita Lavinia. It commands a wide view over Velletri and the sea. To HAMILTON and his associates it proved one of the richest mines of ancient art which they had the good fortune to light upon. Mr. TOWNELEY's share in the spoil of Monte Cagnolo comprised the group of *Victory sacrificing a Bull*; the *Actæon*; a *Faun*; a Bacchanalian vase illustrative of the *Dionysia*; and several other works of great beauty. The undraped *Venus* was found—also by Gavin HAMILTON—at Ostia, in 1775.

acqui- OF TOWNELEY'S. In the next year, 1776, Mr. TOWNELEY acquired one of the chiefest glories of his gallery, the *Venus* with drapery. This also was found at Ostia, in the ruins of the Baths of Claudius. But that superb statue would not have left Rome had not its happy purchaser made, for once, a venial deflection from the honourable motto just adverted to. The figure was found in two severed portions, and care was taken to show them, quite separately, to the authorities concerned in granting facilities for their removal. The same excavation yielded to the Towneley Collection the statue of *Thalia*. From the Villa Casali on the Esquiline were obtained the terminal head of *Epicurus*, and the bust thought to be that of *Domitia*. The bust of *Sophocles* was found near Genzano; that of *Trajan*, in the Campagna; that of *Septimius Severus*, on the Palatine, and that of *Caracalla* on the Esquiline. A curious cylindrical fountain (figured in *A. M.*, i, § 10) was found between Tivoli and Præneste, and the fine representation in low

of a *Bacchanalian procession* (*Ib.*, part ii) at Civita
ia. All these accessions to the Towneley Gallery
d in 1775 or 1776.

the date of the Collector's first return to England
his treasures I have found no record. But it would
that nearly all the marbles hitherto enumerated were
nt to England in or before the year 1777. The house,
don, in which they were first placed was found to be
uate to their proper arrangement. Mr. TOWNELEY
built or adapted another house, in Park street, West-
r, expressly for their reception. Here they were seen
favourable circumstances as to light and due order-
They were made accessible to students with genuine
ty. And few things gave their owner more pleasure
put his store of knowledge, as well as his store of
ties, at the service of those who wished to profit by

He did so genially, unostentatiously, and with
criminating tact which marked the high-bred gentle-
; well as the enthusiastic Collector.

ntemporary critic, very competent to give an opinion
a matter, said of Mr. TOWNELEY: 'His learning
acity in explaining works of ancient art was equal
aste and judgment in selecting them.*' If, in any
hat eulogy is now open to some modification, the
n arises from the circumstance that early in life, or,

early in his collectorship, he had imbibed from his
rse with D'HANCARVILLE somewhat of that writer's
mystical and supersubtle expositions of the symbo-
the Grecian and Egyptian artists. To D'HANCAR-
he least obvious of any two possible expositions of a
was always the preferable one. Now and then

mens of Ancient Sculpture. Published by the Society of Dilet-
face, § 61.

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THE
TOWNELEY
GALLERY IN
ENGLAND.

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EXPLORERS.

TOWNELEY would fall into the same vein of recondite elaboration ; as, for example, when he described his figure of an Egyptian ‘ tumbler ’ raising himself, upon his arms, from the back of a tame crocodile, as the ‘ Genius of Production.’

During the riots of 1780, the Towneley Gallery (like the National Museum of which it was afterwards to become a part) was, for some time, in imminent peril. The Collector himself could have no enemies but those who were infuriated against his religious faith. Fanaticism and ignorance are meet allies, little likely to discriminate between a Towneley Venus and the tawdriest of Madonnas. Threats to destroy the house in Park Street were heard and reported. Mr. TOWNELEY put his gems and medals in a place of safety, together with a few other portable works of art. Then, taking ‘ Clytie ’ in his arms—with the words ‘ I must take care of my wife ’—he left his house, casting one last, longing, look at the marbles which, as he feared, would never charm his eyes again. But, happily, both the Towneley house and the British Museum escaped injury, amid the destruction of buildings, and of works of art and literature, in the close neighbourhood of both of them.

THE
CULPTURES
ACQUIRED
FROM THE
VILLA
MONTALTO
AT ROME;

Liberal commissions and constant correspondence with Italy continued to enrich the Towneley Gallery, from time to time, after the Collector had made England his own usual place of abode. In 1786, Mr. JENKINS—who had long established himself as the banker of the English in Rome, and who continued to make considerable investments in works of ancient art, with no small amount of mercantile profit—purchased all the marbles of the Villa Montalto. From this source Mr. TOWNELEY obtained his *Bacchus visiting Icarus* (engraved by BARTOLI almost a century before) ; his *Bacchus and Silenus* ; the bust of

ian ; the sarcophagus decorated with a *Bacchanalian* *vision* (*A. M.*, part x), and also that with a representation of the *Nine Muses*. By means of the same keen agent explorer he heard, in or about the year 1790, that leave been given to make a new excavation under circumstances of peculiar promise.

Collector was at Towneley when the letter of Mr. ns came to hand. He knew his correspondent, and honour of the letter induced him to resolve upon an arduous journey to Rome. The grass did not grow under his feet. He travelled as rapidly as though he had still a youngster, escaping from Douay, with all the elements of Paris in his view.

When he reached Rome, he learnt that the promising expedition was but just begun upon. Without any preliminary visits, or announcement, he quietly presented himself on the side of the diggers, and ere long had the satisfaction of a fine statue of Hercules displayed. Other fine works came to light. But on visiting Mr. JENKINS, in order to enjoy a more deliberate examination of 'the find,'

to settle the preliminaries of purchase, his enjoyment was much diminished by the absence of Hercules. JENKINS did not know that his friend had seen it exhumed, and he had only concealed it from his view. Eager remonstrance, however, compelled him to produce the hidden treasure. JENKINS, at length, left the banker's house with the conviction that the statue was his own, but it never charmed him again until he saw it in the Collection of Lord Towneley. He had, however, really secured the *Discobolus* or Quoit-thrower,—perhaps, notwithstanding its mutilated head, the finest of the known repetitions of the famous statue,—as well as some minor pieces of sculpture.

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AND FROM
NEW EXCAVATIONS.

THE
JOURNEY
TO ROME
OF 1790?

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ACQUISITION
MADE IN
ENGLAND
AND IN
FRANCE.

Other and very valuable acquisitions were made, occasionally, at the dispersion of the Collections of several lovers of ancient art, some of these Collections having been formed before his time, and others contemporaneously with his own. In this way he acquired whilst in England (1) the bronze statue of *Hercules* found, early in the eighteenth century, at Jebel or Gebail (the ancient Byblos), carried by an Armenian merchant to Constantinople, there sold to Dr. SWINNEY, a chaplain to the English factory; by him brought into England, and purchased by Mr. James MATTHEWS; (2) the Head of *Arminius*, also from the Matthews Collection; (3) the *Libera* found by Gavin HAMILTON, on the road to Frascati, in 1776, and then purchased by Mr. GREVILLE; (4) Heads of a *Muse*, an *Amazon*, and some other works, from the Collection of Mr. Lyde BROWNE, of Wimbledon; (5) the *Monument of Xanthippus*, from the Askew Collection; (6) the bust of a female unknown (called by TOWNELEY 'Athys') found near Genzano, in the grounds of the family of CESARINI, and obtained from the Collection of the Duke of ST. ALBANS; (7) many urns, vases, and other antiquities, partly from the Collection of that Duke and partly from Sir Charles FREDERICK'S Collection at Esher. The bronze *Apollo* was bought in Paris, at the sale, in 1774, of the Museum formed by M. L'ALLEMAND DE CHOISEUL.

Some other accessions came to Mr. TOWNELEY by gift. The *Tumbler and Crocodile*, and the small statue of *Pan* (*A. M.*, pt. x, § 24), were the gift of Lord CAWDOR. The *Oracle of Apollo* was a present from the Duke of BEDFORD. This accession—in 1804—was the last work which Mr. TOWNELEY had the pleasure of seeing placed in his gallery. He died in London, on the 3rd of January, 1805.

had been made, in 1791, a Trustee of the British Museum, in the progress of which he took a great interest. Under these circumstances, as it seems, occurred which at last brought about a change in the original disposition which he had made of his Collection. By a Codicil, executed only twelve months before his death, he bequeathed the Collection to his son, Edward TOWNELEY-STANDISH, on condition that a sum of at least four thousand five hundred pounds should be expended for the erection of a suitable repository in which the Collection should be arranged and exhibited. Should such expenditure by the brother, the Collection was to remain in the hands of John TOWNELEY, uncle of the Testator. Should he fail to fulfil the conditions, then the Collection should revert to the Testator's first intent, to the British Museum.

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MR. TOWNELEY'S WILL.

Codicil of
22 Dec., 1804.

Finally, it appeared, on an application from the Trustees, that the heirs were willing to transfer the Collection to the Public, but that Mr. TOWNELEY had the estate subject to a mortgage debt of £36,500. The Trustees, therefore, resolved to apply to Parliament for aid, and this noble Collection was acquired for the Nation at a payment of the sum of £20,000, very inadequate, scarcely be added, to its intrinsic worth.

Act of
44 Geo. III.

Mr. TOWNELEY possessed considerable skill, both as an engraver and as an author. In authorship, his public appearance was as the writer of a dissertation on the subject of antiquity (the 'Ribchester Helmet'), printed in 1804, under the title *Antiqua Monumenta*.

He was a learned, genial, and benevolent man. His interest in the study of ancient art did not blind his eyes to things of the present, and above it. The impulses of the collector did not obstruct the duties of the citizen. He was a good citizen; a generous friend. It may be said of him, with

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literal truth, that he restricted his personal indulgences in order that he might the more abundantly minister to the wants of others.

Charles TOWNELEY was buried at Burnley. The following inscription was placed upon his monument :

M. S.
CAROLI TOWNELEY,
viri ornati, modesti,
nobilitate stirpis, amœnitæ ingenii, suavitæ morum,
insignis ;
qui omnium bonarum artium, præsertim Græcarum,
spectator elegantissimus, æstimator acerrimus, judex peritissimus,
earum reliquias, ex urbium veterum rudibus effossas,
summo studio conquisivit, suâ pecuniâ redemit, in usum patriæ reposuit,
eâ liberalitate animi, quâ, juvenis adhuc,
hæreditatem alteram, vix patrimonio minorem,
fratri spontè cesserat, dono dederat.
Vixit annos lxvii. menses iii. dies iii.
Mortem obiit Jan. iii. A.S. 1805.

Whilst the Trustees of the British Museum were preparing—in a way that will be hereafter noticed—for the reception of this noble addition to the public wealth of the Nation, another liberal-minded scholar and patriot was considering in what way his collections in the wide field of classical archæology might be made most contributive to the progress of learning, of art, and of public education.

LORD ELGIN
AND HIS
PURSITS
IN GREECE.

Thomas BRUCE, eleventh Earl of Kincardine, and seventh Earl of Elgin, was born on the 20th of July, 1766. He was a younger son, but succeeded to his earldoms on the death, without issue, in 1771, of his elder brother, William Robert, sixth Earl of Elgin, and tenth of Kincardine. He was educated at Harrow, at St. Andrew's, and at Paris ; entered the army in 1785 ; and in 1790 began his diplomatic career by a mission to the Emperor Leopold. In

uent years he was sent as Commissioner to the of Prussia and Austria, successively, and was present active military operations, both in Germany and in rs. In 1795 he went as envoy to Berlin.

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ELGIN was appointed to the embassy to the n Porte, with which his name is now inseparably ed, in July, 1799. One of his earliest reflections ceiving his appointment was that the mission to tinople might possibly afford opportunities of pro- the study and thorough examination of the remains ian art in the Turkish dominions. He consulted friend, Mr. HARRISON—distinguished as an archi- o had spent many years of study on the Continent ch profit—as to the methods by which any such nities might be turned to fullest account. HARRI- lvice to his lordship was that he should seek per- to employ artists to make casts, as well as s and careful admeasurements, of the best remain- nples of Greek achitecture and sculpture, and more y of those at Athens.

e leaving England, Lord ELGIN brought this subject e Government. He suggested the public value of ct sought for, and how worthy of the Nation it e to give encouragement from public sources for loyment of a staff of skilful and eminent artists. suggestion was received with no favour or wel- He was still unwilling to relinquish his hopes, and ured to engage, at his own cost, some competent men and modellers. But the terms of remunera- posed to him were beyond his available means. d that he must give up his plans.

aching Palermo, however, Lord ELGIN opened the

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CONFERS
WITH SIR
WILLIAM
HAMILTON.

subject to Sir William HAMILTON, who strongly recommended him to persevere, and told him that if he could not afford to meet the terms of English artists, he would find less difficulty in coming to an agreement with Italians, whose time commonly bore a smaller commercial value. With Sir William's assistance he engaged, in Sicily, a distinguished painter and archæologist, John Baptist LUSIERI (better known at Naples as 'Don Tita'), and he obtained several skilful modellers and draughtsmen from Rome. The removal of the marbles themselves formed no part of Lord ELGIN's original design. That step was induced by causes which at this time were unforeseen.

SENDS
ARTISTS TO
ATHENS;

On his arrival at Constantinople Lord ELGIN applied to the Turkish Ministers for leave to establish six artists at Athens to make drawings and casts. He met with many difficulties and delays, but at length succeeded. Mr. HAMILTON, his Secretary, accompanied the Italians into Greece, to superintend the commencement of their labours.

The difficulties at Constantinople proved to be almost trivial in comparison with those which ensued at Athens.

Every step was met, both by the official persons and the people generally, with jealousy and obstruction. If a scaffold was put up, the Turks were sure that it was with a view to look into the harem of some neighbouring house.

If a fragment of sculpture was examined with any visible delight or eagerness, they were equally sure that it must contain hidden gold. When the artist left the specimen he had been drawing, or modelling, he would find, not infrequently, that some Turk or other had laid hands upon it and broken it to pieces. But the artists persevered, and habit in some degree reconciled, at length, the people to their presence.

When Lord ELGIN went himself to Athens the state in

he found some of the temples suggested to him the
 leness of excavations in the adjacent mounds. He
 sed some houses, expressly to pull them down and
 beneath and around them. Sometimes the explora-
 ough to light valuable sculpture. Sometimes,
 tions of greatest promise, nothing was found.

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 AND MAKES
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 TIONS BY
 DIGGING.

one occasion, when the indication of buried sculpture
 conclusive, and yet the search for it fruitless, Lord
 was induced to ask the former owner of the ground
 membered to have seen any figures there. 'If you
 ed me that before,' replied the man, 'I could have
 ou all your trouble. I found the figures, and
 l them to make mortar with, because they were of
 t marble. A great part of the Citadel has been
 th mortar made in the same way. That marble
 apital lime.'

onversation was not lost upon Lord ELGIN. And
 ction made in it was amply corroborated by facts
 presently came under his own eyes. He became
 d that when fine sculpture was found it would be
 o remove it, if possible, rather than expose it to
 lestruction—a little sooner or a little later—from
 barbarity.

tervals the artists, whose head-quarters were at
 made exploring trips to other parts of Greece.
 ted Delphi, Corinth, Epidaurus, Argos, Mycene,
 gæum, Olympia, Æginæ, Salamis, and Ma-

THE EX-
 PLORATIONS
 EXTENDED
 TO OTHER
 PARTS OF
 GREECE.

was only by means of renewed efforts at Constan-
 and after a long delay, that the artists and their
 labourers were enabled to act with freedom and
 thorough explorations. So long as the French
 masters of Egypt Lord ELGIN had to win every

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INFLUENCE
OF THE
BRITISH
VICTORIES
IN EGYPT.

little concession piecemeal, and obtained it grudgingly. As soon as it became apparent that the British Expedition would be finally successful, the tone of the Turkish government was entirely altered. They were now eager to satisfy the Ambassador, and to lay him under obligation. Firmauns were given, which empowered him, not only to make models, but 'to take away any pieces of stone from the temples of the idols with old inscriptions or figures thereon,' at his pleasure. Instructions were sent to Athens which had the effect of making the Acropolis itself a scene of busy and well-rewarded labour. Theretofore a heavy admission fee had been exacted at each visit of the draughtsmen or modellers. Before the close of 1802, more than three hundred labourers were at work under the direction of LUSIERI—with results which are familiar to the world.

It is less widely known that, had NAPOLEON's plans in Egypt been carried to a prosperous issue, the 'Elgin Marbles' would, beyond all doubt, have become French marbles. When Lord ELGIN's operations began, French agents were actually resident in Athens, awaiting the turn of events and prepared to profit by it, in the way of resuming the operations which M. DE CHOISEUL GOUFFIER had long previously begun.*

INSTANCES
OF TURKISH
DEVASTA-
TION.
1674.

The efforts of the British Ambassador became the more timely and imperative from the fact that no amount of experience or warning was sufficient to deter the Turks from

* One of the metopes from the south side of the Parthenon, removed by the Count de Choiseul, during his embassy at the eve of the Revolution, was captured by an English ship when on its way to France, and had been purchased by Lord Elgin at a Custom House sale in London. By him it was returned to Choiseul, with a liberality too rare in such matters. When this metope came, after Choiseul's death, to be sold at Paris, by auction, the Trustees of the British Museum sent a commission for its purchase. The commissioner went so far as to offer a thousand pounds, but was overbidden by the French Government.

avourite practice of converting the finest of the Greek
es into powder magazines. Twenty of the metopes
northern side of the Parthenon had been, in conse-
of this practice, destroyed by an explosion during
netian siege of Athens in the seventeenth century.
temple of Neptune was found by Lord ELGIN
d to the same use, at the beginning of the nine- 1800.

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methods of extending his researches, so as to make
s nearly exhaustive as the circumstances would admit,
verlooked by the ambassador. Through the friend-
the Capitan Pasha, Lord ELGIN had already, whilst
the Dardanelles, obtained the famous Boustrophedon
tion from Cape Sigæum. Through the friendship of
hbishop of Athens, he now procured leave to search
rches and convents of Attica, and the search led to
session of many of the minor but very interesting
of sculpture and architecture which came even-
to England along with the marbles of the Par-

ne curious range and variety of the dangers to which
ains of ancient art were exposed under Turkish rule,
ustrophedon inscription just mentioned affords an
e worth noting. Lord ELGIN found it in use as a
couch, at the door of a Greek chapel, to which per-
licted with ague or rheumatism were in the habit of
g, in order to recline on this marble, which, in their
ossessed a mysterious and curative virtue. The seat
placed as to lift the patient into a much purer air
at which he had been wont to breathe below, and it
nded a most cheerful sea-view; but it was the ill
he inscription to have a magical fame, instead of the
here. Constant rubbing had already half obliterated

*Memorandum
on the Earl
of Elgin's
Pursuits in
Greece, &c.,
p. 35.*

OK II,
p. II.
SSICAL
HÆOLO-
TS AND
LOERS.

its contents. But for Lord ELGIN, the whole would soon have disappeared. At Athens itself, the loftier of the sculptures in the Acropolis enjoyed equal favour in the eyes of Turkish marksmen, as affording excellent targets.

In the course of various excavations made, not only at Athens, but at Æginæ, Argos, and Corinth, a large collection of vases was also formed. It was the first collection which sufficed, incontestibly, to vindicate the claim of the Greeks to the invention of that beautiful ware, to which the name of 'Etruscan' was so long and so inaccurately given.

, 31.

One of the most interesting of the many minor discoveries made in the course of Lord ELGIN's researches comprised a large marble vase, five feet in circumference, which enclosed a bronze vase of thirteen inches diameter. In this were found a lachrymatory of alabaster and a deposit of burnt bones, with a myrtle-wreath finely wrought in gold. This discovery was made in a tumulus on the road leading from Port Piræus to the Salaminian Ferry and Eleusis.

Early in 1803, all the sculptured marbles from the Parthenon which it was found practicable to remove were prepared for embarkation. Both of those so prepared and of the few that were left, casts had been made, together with a complete series of drawings to scale. That great monument of art had been exhaustively studied, with the aid of all the information that could be gathered from the drawings made by the French artist, CARREY, in 1674, and those of the English architect, STUART, in 1752. A general monumental survey of Athens and Attica was also compiled and illustrated.

The original frieze, in low relief, of the *cella* of the Par-

on—representing the chief festive solemnity of Athens, anathenaic procession—had extended, in the whole, to five hundred and twenty feet in length. That portion which eventually reached England amounted to two hundred and fifty feet. And of this a considerable part was saved by excavations. Of a small portion of the original casts were brought. But the bulk of it had been before destroyed. Of the statues which adorned the pediments a large portion had also perished, yet enough remained to indicate the design and character of the whole. Statues and fragments of statues, seventeen were brought to England. Of metopes in high relief, from the frieze of the Parthenon, fourteen were brought.

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As far, an almost incredible amount of effort and toil had been rewarded by a result large enough to dwarf all previous researches of a like kind. But the difficulties and dangers of the task were very far from being ended. The precious marbles had to be carried from Athens to the coast. There was neither machinery for lifting, nor apparatus for haulage. There were no roads. The energy, however, which had wrestled with so many previous obstacles, triumphed over these. But only to encounter new difficulties in the shape of a fierce storm at sea.

THE DIFFICULTIES OF
TRANSPORT
AND THE
SHIPWRECK
AT CERIGO.

Some of the Elgin Marbles had been at length embarked on a ship, purchased at Lord ELGIN's own cost, in which Captain AMILTON sailed for England, carrying with him also his wings and journals. The vessel was wrecked near the coast. Seven cases of sculpture sunk with the ship. Four, out of the eleven embarked in the *Mentor*, were saved along with the papers and drawings. Meanwhile, Lord ELGIN himself, on his homeward journey, was, upon the signature of the Peace of Amiens, arrested and 'detained' in France.



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If the reader will now recall to mind, for an instant, the mortifications and discouragements, as well as the incessant toils, which had attended this attempt to give to the whole body of English artists, archæologists, and students, advantages which theretofore only a very small and exceptionally fortunate knot of them could enjoy, or hope to enjoy, he will, perhaps, incline to think that enough had been done for honour. The casts and drawings had been saved. The removal of marbles had formed no part of Lord ELGIN's first design. It was only when proof had come—plain as the noonday sun—that to remove was to preserve, and to preserve, not for England alone, but for the civilised world, that leave to carry away was sought from the Turkish authorities, and removal resolved upon.

Entreaty to the British Government that the thorough exploration of the Peloponnesus, by the draughtsman and the modeller, should be made a national object, had been but so much breath spent in vain. Private resources had then been lavished, beyond the bounds of prudence, to confer a public boon. Personal hardships and popular animosities had been alike met by steady courage and quiet endurance. All kinds of local obstacle had been conquered. And now some of the most precious results of so much toil and outlay lay at the bottom of the sea. The chief toiler was a prisoner in France.

But Lord ELGIN was not yet beaten. He came of a tough race. He was—

'One of the few, the letter'd and the brave,
Bound to no clime, and victors o'er the grave.'

The buried marbles were raised, at the cost of two more years of labour, and after an expenditure, in the long effort, of nearly five thousand pounds, in addition to the original loss of the ship. Then a storm of another sort had to be

LORD ELGIN
BRANDED, IN
ENGLAND, AS
A ROBBER.

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in its turn. A burst of anger, classical and poetical, red the ambassador to be, not a benefactor, but a thief. The author of *the Classical Tour through Italy* declared that Lord Elgin's 'rapacity is a crime against all ages and all generations; depriving the Past of the trophies of their genius and the title-deeds of their fame, the Present of the strongest arguments to exertion.' The author of *Childe Harold's Pilgrimage* declared that, for all time, the spoiler's name (the notorious name of BRUCE)—

Eustace,
Classical
Tour, p. 269.

'Link'd with the fool's who fired th' Ephesian dome—
Vengeance shall follow far beyond the tomb.
EROSTRATUS and ELGIN e'er shall shine
In many a branding page and burning line!
Alike condemn'd for aye to stand accurs'd—
Perchance the second viler than the first.
So let him stand, through ages yet unborn,
Fix'd statue on the pedestal of scorn!'

Byron,
Curse of
Minerva, § 7

the abuse might have variety, as well as vigour, a very old Theban broke in with the remark that there was no need, after all, to make such a stir about the matter. The bruited marbles were of little value, whether in England or in Greece. If Lord ELGIN was, indeed, a benefactor, he was also an ignoramus. His bepraised sculptures, instead of belonging to the age of PERICLES, belonged, at earliest, to that of HADRIAN; far from bearing the stamp of the hand of PHIDIAS, they were, at best, mere ætæonic sculptures, the work of many different persons, of whom would not have been entitled to the rank of sculptors even in a much less cultivated and fastidious age. PHIDIAS did not work in marble at all.' These remarks and sentences, and many more of a like cast, were uttered all over the world under the sanction of the 'Society of Antiquaries.'

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The equanimity which had stood so many severer tests did not desert its possessor under a tempest of angry words. When set at liberty, after a long detention in France, he resumed his journey. On his eventual arrival in England, in 1806, he brought with him a valuable collection of gems and medals, gathered at Constantinople. He also brought some valuable counsels as to the mode in which he might best make the Athenian Marbles useful to the progress of art, obtained in Rome.

LORD
ELGIN'S
CONFERENCE
WITH
CANOVA.

For, at Rome, he had been enabled to show a sample of his acquisitions to a man who was something more than a dilettante. 'These,' said CANOVA, 'are the works of the ablest artists the world has seen.'

When consulted on the point whether restoration should, in any instance, be attempted, the reply of the great Italian sculptor was in these words: 'The Parthenon Marbles have never been retouched. It would be sacrilege in me—sacrilege in any man—to put a chisel on them.'

LORD ELGIN came to England with the intention of offering his whole Collection to the British Government, unconditionally. He was ready to forget the short-sightedness with which his proposal of 1799 had been met. He was prepared to trust to the liberality of Parliament, and to the force of public opinion, for the reimbursement of his outlay, and the fair reward of his toil. The ambassador was not in a position to sacrifice the large sums of money he had spent. He could not afford the proud joy of giving to Britain, entirely at his own cost, a boon such as no man, before him, had had the power of giving. There were conflicting duties lying upon him, such as are not to be put aside. That British artists—in one way or another—should profit by the grand exemplars of art which he had saved from Turkish musquetry and the Turkish

ilms, was the one thing towards which his face was

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en first imprisoned in France, Lord ELGIN did actu-
nd a direction to England that his Collection should
de over, unconditionally, to the British Government.
rder was sent, to guard against the possible effect of
ualty that might happen during his detention, the
on of which was then very problematical. He reached
nd, however, before the instruction had been carried
fect. In the mean time, the controversy about the
lue of the Marbles, as well as that which impugned
llector's right to remove them from Athens, had
and had excited public attention. It became im-
; to elicit an enlightened opinion on those points,
raising the question how the sculpture should be
disposed of.

ignorance of essential facts—which alone made such
hes* as those I have just quoted possible from a man
of malice, and gifted with genius—was a far less
rn obstacle in Lord ELGIN's intended path than was
-sided learning (one sided as far as true art and its
ation are concerned) which dictated the sneering
ces of some among the 'Dilettanti.' A BYRON, by
ure, is open to conviction, sooner or later, in his
spite. A connoisseur, when narrow and scornful,
e reason. And he is eminently reproductive.

*Curse of
Minerva,
passim.

for this stumbling-block in the path, the time
d ELGIN's return to England would have been
tly favourable for realising his plans in their

THE ACTION
OF THE
TRUSTEES OF
THE BRITISH
MUSEUM
ON THE
TOWNLEY

two important accessions of antiquities to the British
n which had just accrued from the success of our

BRQUYST.
1805-1806.



arms in Egypt, and from the almost life-long researches of Mr. TOWNELEY and his associates in Italy, had led the way to an important enlargement of the Museum building, and also to a great improvement in its internal organization. The true importance, to the Public, of a series of the best works of ancient art as a national possession was beginning to be felt.

In June, 1805, the Trustees obtained from Parliament the purchase of the Towneley Marbles. They had already (in the previous year) obtained power to begin an additional building, the plan and design of which were now enlarged, and made specially appropriate to the reception and display of the Towneley Collection.

Hitherto, the Antiquities in the Museum had been regarded as a mere appendix of the Natural History Collections. They were now made a separate department, in accordance with their intrinsic value. Mr. Taylor COMBE, who had entered the service of the Trustees, in 1803, as an assistant librarian, was made first Keeper of the new department. He filled that office, with much efficiency, until his death in 1826.

The new building or 'Towneley Gallery' was opened by a royal visit on the third of June, 1808. The Queen, the Prince of Wales, the Dukes of Cumberland and Cambridge, came to the Museum with a considerable retinue, and were received, with much ceremony, by a Committee of the Trustees. The Queen had not visited the Museum for twenty years past.

The Towneley Gallery was erected from the designs of Mr. SAUNDERS, and was admirably adapted to its purpose. Some of the sculptures have not been seen to quite equal advantage since its replacement by the existing building. The addition has now disappeared as entirely as has old

Big House itself, but the reader may see its form and by glancing at the small vignette on the title-page of volume.

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favourable an opportunity, however, was for the at lost. The self-conceit of the cognoscenti strengthened the too obvious parsimony of Parliament. Lord made no direct overture to the Government, but ed to the great body of artists, of students, and of art for their verdict on his labours in Greece and their st. He arranged his marbles first in his own house k Lane, and afterwards—for the sake of better exhibi— at Burlington House, in Piccadilly, and threw them o public view. The voice of the artists was as the of one man. Some, who were at the top of the tree, vledged a wish that it were possible to begin their over again. Others, who had but begun to climb, ir ardour redoubled and their ambition directed to aims in art than had before been thought of. Not careers, arduous and honourable, took their life-long from what was then seen at Burlington House. of the men most strongly influenced were not what rld calls successful, but not one of them ended his without making England the richer by his work.

OPENING
OF THE
ELGIN MAR-
BLES AT
BURLING-
TON HOUSE.

eagerness of foreign artists to study the Elgin s was equal to that of Englishmen. CANOVA, when visit to London in 1815, wrote: 'I think that I er see them often enough. Although my stay must emely short, I dedicate every moment I can spare r contemplation. I admire in them the truth of united to the choice of the finest forms. . . . I feel perfectly satisfied, if I had come to London see them.'

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The most accomplished of foreign archæologists were not less decisive in their testimony. VISCONTI, after seeing and studying repeatedly a small portion only of the Parthenon frieze, said of it: 'This has always seemed to me to be the most perfect production of the sculptor's art in its kind.' When he saw the whole, his delight was unbounded.

The Collector was not able to carry out his plan of exhibition, in any part of it, to the full extent which he had contemplated.

He was anxious that casts of the whole of the extant sculptures of the Parthenon should be exhibited, in the same relative situation to the eye of the viewer which they had originally occupied in the Temple at Athens. He was also desirous that a public competition of sculptors should be provided for, in order to a series of comparative restorations of the perfect work, based upon other casts of its surviving portions, and wrought in presence of the remains of the authentic sculpture itself.

CONTINU-
 ANCE OF THE
 LABOURS OF
 LUSIERI AT
 ATHENS,
 UNTIL 1816.

Meanwhile, the chief of the artists employed in the work of drawing and modelling continued his labours at Athens, and in its vicinity, for more than twelve years after Lord ELGIN's departure from Constantinople. Between the years 1811 and 1816, inclusive, eighty cases containing sculpture, casts, drawings, and other works of art, were added to the Elgin Collection in London.

In the year last named, when the question of artistic value had already been very effectively determined by the cumulative force of enlightened opinion, a Select Committee of the House of Commons was at length appointed, to inquire whether it were expedient that Lord ELGIN's Collection 'should be purchased on behalf of the Public, and, if so, what price it may be reasonable to allow for the same.'

this Committee it was reported to the House that all of the most eminent artists in this kingdom rate the marbles in the very first class of ancient art; of them with admiration and enthusiasm; and, notwithstanding their manifold injuries, . . . and mutilations, consider them as among the finest models and most valuable monuments of antiquity.' It was also reported that their removal to England had been explicitly authorised

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*Report on
Earl of
Elgin's Col-
lection (1816),
p. 8.*

Turkish Government. The Committee further recommended their purchase for the Public at the sum of five thousand pounds; and that the Earl of ELGIN and his heirs (being Earls of Elgin) should be perpetual trustees of the British Museum. And the Committee ex-

Id., p. 16.

pressed in conclusion, its hope that the Elgin Marbles might serve as models and examples to those who, by knowing how to revere and appreciate them, may first learn to understand and ultimately to rival them. On the 1st of July, 1800, the Act for effecting the purchase was passed by the House. I do not know that any one member of the House of Commons or of Dilettanti really regretted the fact. But it is true that by a very eminent connoisseur on the Continent much regretted. The King of Bavaria had already offered a sum of thirty thousand pounds in an English house, by way of securing a pre-emption, should any controversy amongst the connoisseurs on this side of the Channel, of which so much had been heard, lead the British Government eventually to decline the purchase.

Id., p. 27.

The fairest estimate that could be formed in 1816 of the Earl of ELGIN's outlay, from first to last, amounted to upwards of fifty thousand pounds. And the interest on that sum at subsisting rates, amounted to about twenty-four thousand pounds. Upon merely commercial principles, the mark of honour affixed by Parliament to the

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Earldom of Elgin was abundantly earned. By every other estimate, Lord ELGIN had done more than enough to keep his name, for ever, in the roll of British worthies. And, as all men know, he had a worthy successor in that honoured title. The name of ELGIN, instead of ranking, according to BYRON's prophecy, with that of EROSTRATUS, has already become a name not less revered in the Indies, and in America, than in Britain itself.

For nearly half a century, Lord ELGIN was one of the Representative Peers of Scotland. After his great achievement was completed, he took but little part in public life. The most curious incident of his later years was his election as a Member of the Society of Dilettanti, twenty-five years after his return from the Levant. The election was made without his knowledge. When the fact was intimated to him, he wrote to the Secretary to decline the honour. After a brief and dignified allusion to his efforts in Greece, he went on to say :—' Had it been thought—twenty-five years ago, or at any reasonable time afterwards—that the same energy would be considered useful to the Dilettanti Society, most happy should I have been to contribute every aid in my power; but such expectation has long since past. I do not apprehend that I shall be thought fastidious, if I decline the honour now proposed to me at this my eleventh hour.'

The Collector of the Elgin Marbles died in England on the fourteenth of October, 1841.

THE MAR-
BLES OF
PHIGALEIA.

During the long period which had thus intervened between the first exhibition to the Public of the sculptures from the Temple of Minerva and their final acquisition for the national Museum, an inferior but valuable series of Greek marbles was obtained from Phigaleia, in Arcadia.

were the fruit of the joint researches, in 1812, of the eminent architect, Mr. Charles Robert COCKERELL, John FOSTER, Mr. LEE, Mr. Charles HALLER VON ROSTEIN, and Mr. James LINKH, who, in that year, came fellow-travellers in Greece, and partners in the exploration for antiquities.

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temple to which these marbles had belonged, and the ruins of which they were found, stands on a clothed with oak trees on one of the slopes of Mount m. The scenery which surrounds it is of great

The temple itself has long been a ruin. It was the work of IKTINUS, the builder of the Parthenon. One of the frieze of its *cella* represents the battles of the Greeks and the Lapithæ—the subject of the metopes of the Parthenon entablature. The remaining portion illustrates another series of mythic contests—that of the Athenians and the Amazons.

Extent of this frieze, in its integrity, was about a hundred and eight feet in length, by two feet one and a half inches in height. About ninety-six lineal feet were broken into innumerable fragments, but susceptible, by dint of skill and of marvellous patience—most entire reunion, so that no restoration was required to bring the subject of the sculpture into perfect intelligibility.

COCKERELL, one of the most active of the explorers, had to proceed to Sicily whilst his fellows in the expedition were carried on the toils of digging and removal. But in his pen that we have a charming little notice of the progress of the work, and of the amusements which attended it. 'I regret,' wrote Mr. COCKERELL, 'that I was not at that delightful party at Phigaleia, which amounted to fifteen persons. They established themselves, for

THE EXCA-
VATIONS ON
MOUNT
COTYLÆUM.



x II,
p. II.
SSICAL
HÆOLO-
'S AND
LORRES.

three months, on the top of Mount Cotylius—where there is a grand prospect over nearly all Arcadia—building, round the Temple, huts covered with boughs of trees, until they had almost formed a village, which they called Francopolis.

* {

They had frequently fifty or eighty men at work in the Temple, and a band of Arcadian music was constantly playing to entertain this numerous assemblage. When evening put an end to work, dances and songs commenced; lambs were roasted whole on a long wooden spit; and the whole scene in such a situation, at such an interesting time, when, every day, some new and beautiful sculpture was brought to light, is hardly to be imagined. Apollo must have wondered at the carousals which disturbed his long repose, and have thought that his glorious days of old were returned.'

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...;
ited by
ghes,
vels in
nce, vol. II,
94.

'The success of our enterprise,' continues Mr. COCKE-
RELL, 'astonished every one, and in all circumstances con-
nected with it good fortune attended us.' One of these
circumstances, however—that of the mixed nationality of
the discoverers—put, it must be added, some difficulty in
the way towards accomplishing an earnest wish, on the
part of the English sharers in the adventure, that England
should be made the final home of the Phigaleian sculptures.
Two Germans, as we have seen, were active partners in the
exploration. A third, Mr. GROPIUS, had likewise some inte-
rest in it. And there was also a more formidable sleeping
partner in the rich digging. VELY Pasha had stipulated that
he was to have one half of the marbles discovered, as the
price of his licence to explore. But, very fortunately, one
of the ordinary changes in Turkish policy at Constantinople
removed VELY from his government, just at the critical
moment; and so made him anxious to sell his share, and to
facilitate the removal of the spoil. The new Pasha had

of the discoveries, and was hastening to lay hands on the whole. But he was too late.

marbles were removed to Zante. The German professors insisted on a public sale by auction. There was no time to bring the matter before Parliament. But the Regent took an active interest in it. With his aid, and mainly by the exertions of Mr. W. R. Hamilton (afterwards a zealous Trustee of the British Museum), some members of the Government authorised the purchase of Mr. Taylor Combe to Zante. By him the

marbles were purchased, at the price of sixty thousand pounds; but that sum was enhanced by an unfavourable exchange, so that the actual payment amounted to nineteen thousand pounds. It was paid out of the Droits of the Treasury,—a fund of questionable origin, and one which has been many times grossly abused, but which, on this occasion, subserved a great national advantage.

Marbles thus obtained are confessedly inferior to those of the Parthenon; but they possess great beauty, as well as great archæological value. Both acquisitions, in fact, have contributed to increase historic knowledge, more conspicuously than to develop artistic power, or to sharpen critical judgment, both in art and in literature. It is not an easy task to estimate to what degree a knowledge of the learning which is to be acquired only from the marbles of Attica and of Arcadia, and their like, has helped to make the study of Greek books a living and life-giving study.

sculptures brought from Phagaleia into England several missing fragments have been added subsequently. A peasant living near Paulizza had carried off a fragment of a frieze to decorate, or to hallow, his hut. This fragment was procured by Mr. SPENCER STANHOPE in 1816.

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THE TRANSFER OF THE
MARBLES OF
PHIGALIA
TO ZANTE;

AND TO
ENGLAND.



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EXPLORERS.

PURCHASE
OF THE
SECOND
TOWNELEY
COLLECTION,
1814.

The Chevalier BRÖNDSTED added other fragments in 1824. Only one entire slab of the original sculpture is wanting.

Almost contemporaneously with the accessions which came to the Museum as the result of the explorations in 1814 of Mr. COCKERELL and his fellow-travellers in Arcadia, a considerable addition was made to the Towneley Gallery by the purchase of a large series of bronzes, gems, and drawings, and of a cabinet of coins and medals, both Greek and Roman, all of which had been formed by the Collector of the Marbles. These were purchased from Mr. TOWNELEY's representatives for the sum of eight thousand two hundred pounds. Among other conspicuous additions, made from time to time, a few claim special mention. Among these are the *Cupid*, acquired from the representatives of Edmund BURKE; the *Jupiter* and *Leda*, in low relief, bought of Colonel de BOSSET; and the *Apollo*, bought in Paris, at the sale of the Choiseul Collection.

MINOR
ANTIQUITIES
OF THE
ELGIN COL-
LECTION.

Among the minor Greek antiquities which came to the British Museum in 1816, along with the sculptures of the Parthenon, are the fine Caryatid figure, and the very beautiful Ionic capitals, bases, and fragments of shafts, from the double temple of the Erectheium and Pandrosos at Athens,—part of which, like the Temple of Neptune, was used by the Turks, in Lord ELGIN's time, as a powder-magazine. Acquisitions still more valuable than these were the grand fragment of the colossal *Bacchus* in feminine attire, which Lord ELGIN brought from the Choragic monument of Thrasyllus; the statue of *Icarus* (identified by comparison with a well-known low-relief in rosso antico formerly preserved in the Albani Collection); and the noble series of casts from the frieze of the Theseium and from that of the

gic monument of Lysicrates. The Collection also led many statues' heads and fragments of great ological interest, but of which the original localities : the most part unknown, and a considerable series of hral urns.

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er the Elgin Marbles, the next important acquisition Department of Antiquities was that made by the pur- in 1819, of the famous '*Apotheosis of Homer*.' arble had been found, almost two centuries before, tocchi (the ancient 'Bovillæ'), about ten miles from on the Appian road, and had long been counted the choicest ornaments of the Colonna Palace. It e Trustees one thousand pounds. Then, in 1825, he noble bequest of Mr. Richard Payne KNIGHT.

on the treasures of Mr. Payne KNIGHT came to be to the several Collections made, during the preceding ars, by HAMILTON, TOWNELEY, and ELGIN, as well ose which the British army had won in Egypt, or vere due, in the main, to the research and energy of velling fellow-countrymen, the national storehouse rly be said to have passed from its nonage into 7. The Elgin Collection had, of itself, sufficed to British Museum into the first rank among its peers.

antiquarian treasures of the Museum showed many Some important additions, indeed, had been made, ne to time, to the class of Egyptian antiquities. small foundation had been laid of what is now erb Assyrian Gallery. Rich in certain classes of gy, it remained, nevertheless, poor in certain In 1825, it came to the front in all.

rd Payne KNIGHT is one of the many men who, in ability; would have attained more eminent and ; distinction had he been less impetuous and more

THE LIFE,
WRITINGS,
AND COL-
LECTIONS, OF
R. PAYNE
KNIGHT.

concentrated in its pursuit. He went in for all the honours. He aimed to be conspicuous, at once, as archæologist and philosopher, critic and poet, politician and dictator-general in matters of art and of taste. He was ready to give judgment, at any moment, and without appeal, whether the question at issue concerned the decoration of a landscape, the summing-up of the achievement of a HOMER or a PHIDIAS, or the system of the universe.

Mr. KNIGHT was born in 1749, and was the son of a landed man, of good property, whose estates were chiefly in Wiltshire, and who possessed a borough 'interest' in Ludlow. His constitution was so weakly, and his chance of attaining manhood seemed so doubtful, that his father would not allow him to go to any school, or to be put to much study at home. It was only after his father's death, and when he had entered his fourteenth year, that his education can be said to have begun. Within three years of his first appearance in any sort of school, he went into Italy; substituting for the university the grand tour. Only when he was approaching eighteen years of age did he fairly set to work to learn Greek. But he studied it with a will, and to good purpose.

After remaining on the Continent about six or seven years, Mr. Payne KNIGHT removed to England, and went to live at Downton Castle. He took delight in the management of his land, proved himself to be a kind landlord as well as a skilful one, and convinced his neighbours that a man might love Greek and yet ride well to hounds. When returned to Parliament for the neighbouring borough, he attached himself to the Whigs, and more particularly to that section of them who supported BURKE in his demands for economical reform. When in London, he gave constant attention to his parliamentary duty, and when in the

y, foxhunting, hospitality, and the improvement of
ate, had their fair share of his time. But, at all
s of life, his love of reading was insatiable. When
was no hunting and no urgent business, he could read
hours at a stretch.

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Payne Knight

had reached his thirty-sixth year before he made the
ginning of his museum of antiquities. The primi-
quisition was a head, unknown—probably of *Diomede*
h was discovered at Rome in 1785. It is in
of early Greek work, and was bought of JENKINS.
e the doubt which exists as to the personage, there are
nown copies of this fine head upon ancient pastes
ms. In the following year, Mr. KNIGHT made his
pearance as an author.

Inquiry into the remains of the Worship of Priapus,
being at Isernia, in the Kingdom of Naples, treated of
et which scarcely any one will now think to have
all chosen, as the firstfruits or earnest of a scholarly

EARLY
WRITINGS OF
MR. PAYNE
KNIGHT.

When a French critic said of it ‘a maiden-work,
le virgin-like (*peu virginal*)’ he expressed, pithily,
al opinion of the very small circle of readers at home
n the book became known. The author eventually
t the impression, so far as lay in his power, and the
now one of the many ‘rarities’ which might well
more rare than they are.

91, he gave to the world another work on a classical
which possessed real value, and, amongst scholars,
! much attention. The *Analytical Essay on the*
Alphabet is a treatise which, in its day, rendered
vice to grammatical learning, and led to more. It
wed, in 1794, by *The Landscape, a Poem*.

Landscape’ is an elaborate protest against the then
le modes of gardening, which sought to ‘improve’

nature, almost as much by replacement as by selection. On many points the poem is marked by good sense and just thought, as well as by vigour of expression, but its reasoning is far superior to its poetry. What is said of the choice and growth of trees shows thorough knowledge of the subject and true taste. But it needs no poet to convict 'Capability Brown' of ignorance in his own pursuit when he insisted on 'the careful removal of every token of decay' as a cardinal maxim in landscape-gardening. Such topics may well be left to plain prose.

The one notable feature in the poem which has still an interest is its curious indication of that peculiarity in Mr. KNIGHT's creed which asserted—in relation both to the works of nature and to those of art—that beauty is absolutely inconsistent with vastness. The excessive love of the minute and delicate led Mr. KNIGHT into the greatest practical error of his public life, as will be seen presently. At this time it merely led him to the bold assertion that no mountain ought to dare to lift its head so high as to—

'Shame the high-spreading oak, or lofty tower.'

The lines which follow are, it will be seen, curiously prophetic of that controversy about the Marbles of the Parthenon in which Mr. Payne KNIGHT took so large a share :—

'But as vain painters, destitute of skill,
Large sheets of canvas with large figures fill,
And think with shapes gigantic to supply
Grandeur of form, and grace of symmetry,
So the rude gazer ever thinks to find
The view sublime, when vast and undefined.

'Tis form, not magnitude, adorns the scene.
A hillock may be grand, and the vast Andes mean.

Oft have I heard the silly traveller boast
The grandeur of Ontario's endless coast ;

Where, far as he could dart his wandering eye,
He nought but boundless water could descry.
With equal reason, Keswick's favoured pool
Is made the theme of every wondering fool.'

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Within a few months, this poem—little as it is now remembered—went through two editions. It was soon followed by a more ambitious flight. In 1796, its author published *Progress of Civil Society; a didactic poem.*

The impression which had been made, in that day of verse (as far as the southern part of the realm is concerned), by *The Landscape*, gained for *The Progress of Society* an amount of attention of which it was in itself unworthy. The work deals with social progress, treats the convictions dearest to Christian men as simply the conjectures of 'presumptuous ignorance.' The work of a man who writes after nine generations of ancestors and countrymen have had a free and open hand at their hands, and who none the less puts the work of Nature, and of her copyists, in the place of the work of Nature's God. This 'didactic poem' is written in the grand old land of BACON, MILTON, and SHAKESPEARE, and it sets itself on the 'fifth book of LUCRETIVS.'

The least curious thing about the matter is the effect which was wrought by Mr. KNIGHT's poetic flight upon the mind of a brother antiquarian. The work absolutely startled Horace WALPOLE with a serious and deep regret. It was consciously too near the grave to undertake the work of Christian philosophy against its new assailant. The labour, from such a pen, would indeed have been a waste of literature.

It is not surprising that for a man who was almost an octogenarian, the heat of controversy would be too much, WALPOLE wrote to MASON. He entreats him to expose the daring

HORACE
WALPOLE
ON THE
'PROGRESS
OF CIVIL
SOCIETY,'
796.

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poetaster. His earnestness in the matter approaches passion. 'I could not, without using too many words,' he says, 'express to you how much I am offended and disgusted by Mr. KNIGHT's new, insolent, and self-conceited poem. Considering to what height he dares to carry his insolent attack, it might be sufficient to lump [together] all the rest of his impertinent sallies . . . as trifling peccadillos. . . . The vanity of supposing that his authority—the authority of a trumpery prosaic poetaster—was sufficient to re-establish the superannuated atheism of LUCRETIVS ! I cannot engage in an open war with him. . . . Weak and broken as I am, tottering to the grave at some months past seventy-eight, I have not spirits or courage enough to tap a paper war.'

Horace
Walpole to
William
Mason,
March 29,
1796 (*Letters*;
Coll. Edit.,
vol. ix, p. 462).

WALPOLE then adverts to a foregone thought, on MASON's part, to have taken up the foils on the appearance of *The Landscape*. 'I ardently wish,' he says, 'you had overturned and expelled out of gardens this new Priapus, who is only fit to be erected in the Palais de l'Egalité.' And he urges his correspondent not to let the present occasion slip. Irony and ridicule, he thinks, would be weapons quite sufficient to overthrow this 'Knight of the Brazen Milk-Pot.'

The last thrust was unkind indeed. It was hard that our Collector, whatever his other demerits, should be reproached for his passion to gather small bronzes, by the builder and furnisher of Strawberry-Hill.

*Spec. of
Ancient
Sculp.*, pl. 55
and 56.

For, amidst all his devotion to poetry and pantheism, Mr. KNIGHT carried on the pursuits of connoisseurship with insatiable ardour. Among the choicer acquisitions which speedily followed the *Diomedé* [?] purchased in 1785, were the mystical *Bacchus*—a bronze of the Macedonian period—found near Aquila in 1775; a colossal head of *Minerva*, found near Rome by Gavin HAMILTON; and a

of *Mercury* of great beauty. The last-named bronze
 been found, in 1732, at Pierre-Luisit, in the Pays de
 and diocese of Lyons. A dry rock had sheltered
 the figure from injury, so that it retained the perfec-
 its form, as if it had but just left the sculptor's

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16., 33, 34.

It passed through the hands of three French owners
 session before it was sold to Mr. KNIGHT, by the last
 1, at the beginning of the Reign of Terror.

year 1792, in which he acquired this much-prized
 ry,' is also the date of a remarkable discovery of no
 n nineteen choice bronzes in one hoard, at Paramy-
 Epirus. They had, in all probability, been buried
 nearly two thousand years. The story of the find
 self, curious. It shows too, in relief, the energy and
 rance which Mr. KNIGHT brought to his work of
 rship, and in which he was so much better employed
 for himself and for his country—than in philo-
 og upon human progress, from the standpoint of
 IUS.

THE HOARD
 OF BRONZES
 FOUND AT
 PARAMY-
 THIA, IN
 EPIRUS.

incident or other of the weather had disclosed
 nces which led, fortuitously, to a search of the
 into which these bronzes had been cast—perhaps
 the invasion of Epirus, *B.C.* 167—and, by the
 hey were looked upon as so much saleable metal.

as old brass, by a coppersmith of Joannina, they
 y caught the eye of a Greek merchant, who called
 that he had seen similar figures shown as treasures
 seum at Moscow. He made the purchase, and sent
 t, on speculation, to St. Petersburg. The receiver
 them to the knowledge of the Empress CATHERINE,
 imated that she would buy, but died before the
 on was paid for. They were then shared, it seems,
 a Polish connoisseur and a Russian dealer. One

K II.
 V. II.
 HISTORICAL
 ARCHAEO-
 LOGICAL
 AND
 LITERARY.

bronze was brought to London by a Greek dragoman and shown to Mr. KNIGHT, who eagerly secured it, heard the story of the discovery, and sent an agent into Russia, who succeeded in obtaining nine or ten of the sculptures found at Paramythia. Two others were given to Mr. KNIGHT by Lord ABERDEEN, who had met with them in his travels. They were all of early Greek work. Amongst them are figures of *Serapis*, of *Apollo Didymæus*, of *Jupiter*, and of one of the *Sons of Leda*. All these have been engraved among the *Specimens of Ancient Sculpture*, published by the Society of Dilettanti.

Few sources of acquisition within the limits which he had laid down for himself escaped Mr. Payne KNIGHT's research. He kept up an active correspondence with explorers and dealers. He watched Continental sales, and explored the shops of London brokers, with like assiduity. Coins, medals, and gems, shared with bronzes, and with the original drawings of the great masters of painting, in his affectionate pursuit.

In his search for bronzes he welcomed choice and characteristic works from Egypt and from Etruria, as well as the consummate works of Greek genius. His numismatic cabinet was also comprehensive, but its Greek coins were pre-eminent. For works in marble he had so little relish that he actually persuaded himself, by degrees, that the greatest artists of antiquity rarely 'condescended' to touch marble. But he collected a small number of busts in that material.

For one volume of drawings by CLAUDE, Mr. KNIGHT gave the sum of sixteen hundred pounds.

Among his later acquisitions of sculpture in brass was the very beautiful *Mars* in Homeric armour. This figure was brought to England by Major BLAGRAVE in 1813. The

hic Mask (No. 35, in the second volume of the *Speci-*
was found, in the year 1674, near Nimeguen, in a
coffin. It was preserved by the Jesuits of Lyons, in
Collegiate Museum, until their dissolution. From them
sed into the possession of Mr. Roger WILBRAHAM,
whom Mr. KNIGHT obtained it.

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the thorough study of the fine Collection which had
gathered from so many sources—here indicated by but
ity sample—and on that of other choice Collections
at home and abroad, Mr. KNIGHT based the most
ate—perhaps the most valuable—work of his life, next

THE
INQUIRY
INTO THE
SYMBOLISM
OF GREEK
ART AND
MYTHOLOGY.

Museum itself. The *Inquiry into the Symbolism of*
Art and Mythology bears, indeed, too many traces of
rownness of the author's range of thought, whenever
ves the purely artistic criticism of which he was,
his limitations, a master, in order to dissertate on
erdependence or on the 'priestcraft' of the religions of
rld. But his genuine lore cannot be concealed by his
philosophy. The student will gain from the *Inquiry*
nowledge about ancient art. He will find, indeed,
few statements which the author himself would be
st to modify in the light of the new information of
fifty years. But he will also find much which, in
e, proved to be suggestive and fruitful to other
and which prepared the way for wider and deeper
It may do so yet. The book is one which the
of archæology cannot afford to overlook. Whilst
well afford a passing smile at the philosophic in-
which prompted our author's eulogies (1) upon the
and humane spirit which still prevails among those
whose religion is founded upon the principle of
ions;' (2) upon the wisdom of the 'Siamese, who

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Inquiry, &c.,
19.

shun disputes, and believe that almost all religions are good ;' (3) on the supreme fitness of the idolatries of India 'to call forth the ideal perfections of art, by expanding and exalting the imagination of the artist ;' or (4) upon the exceptional and pre-eminent capacity of the Hindoos to become 'the most virtuous and happy of the human race,' but for that one solitary misfortune which cursed them with a priesthood.*

The *Inquiry into Symbolism* was, at first, printed only for private circulation, in 1818. It was afterwards reprinted in the *Classical Journal*, with some corrections by the author. It was again reprinted, after his death, as an appendix to the second volume of the *Specimens of Ancient Sculpture*.

THE DIS-
SERVATION
ON ANCIENT
SCULPTURE.

To the first volume of that work Mr. Payne KNIGHT had already prefixed his *Preliminary Dissertation on the Progress of Ancient Sculpture*. After showing that of Phœnician art we have no real knowledge other than that

* That my needful abridgment, in the text, of Mr. Payne Knight's words may not misrepresent his meaning, I subjoin the whole of the passage:—'Had this powerful engine of influence' [namely, loss of caste] 'been employed in favour of pure morality and efficient virtue, the Hindoos might have been the most virtuous and happy of the human race. But the ambition of a hierarchy has, as usual, employed it to serve its own particular interests instead of those of the community in general. . . . Should the pious labours of our missionaries succeed in diffusing among them a more pure and more moral, but less uniform and less energetic system of religion, they may improve and exalt the character of individual men, but they will for ever destroy the repose and tranquillity of the mass. . . . The prevalence of European religion will be the fall of European domination. . . . The incarnations which form the principal subject of sculpture in all the temples of India, Tibet, Tartary, and China, are, above all others, calculated to call forth the ideal perfections of the art, by expanding and exalting the imagination of the artist, and exciting his ambition to surpass the simple imitation of ordinary forms, in order to produce a model of excellence, worthy to be the corporeal habitation of the Deity. But this no nation of the East, nor indeed of the Earth, except the Greeks and those who copied them, ever attempted.'—*Analytical Inquiry*, &c., p. 80.

is to be derived from the study of coins, and that it may be learnt that the Phœnicians had artisans, not artists, he goes on to survey Greek art in its successive phases. That art, at its best, finds, he thinks, a full expression, or summary, in the saying ascribed to PLOTO : 'It is for the sculptor to represent men as they ought to be, not as they really are.' He dates the culmination of Greek sculpture as ranging between the years 450 and 400, and as due to the national pride and enthusiasm which were excited by the defeat of XERXES and the reforms which followed. He thinks that what was gained, by the artists of the next half-century, in ideal grace, and in the refinements of workmanship, was obtained only at the loss of energy, of characteristic expression, and of originality—the *ethos* of art. In the works of LYSIPPUS and his school (B.C. 350-300), he sees a brief resuscitation of the vigour of the former period, combined with more than the grace of the latter, to be followed only briefly by those desolating wars 'in which the temples were destroyed, their treasures of art pillaged, and for the first time, saw their works perish before their creators.'

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ARCHÆOLOGISTS AND
EXPLORERS.

In the '*Dissertation*,' as in the '*Inquiry*,' there are many statements and many reasonings to which subsequent dis-

coveries have brought a tacit correction. The passage in which the Elgin Marbles had to be corrected by the evidence of the author's own eyesight. His examination before the Commons' Committee of 1816 was an amusing

MR. PAYNE
KNIGHT AND
THE ELGIN
MARBLES.

The key-note was struck by the witness's first answer. To the question 'Have you seen the marbles brought to England by Lord ELGIN?' he replied, 'Yes. I have looked them over.' But on this point, enough has been said already in a previous page.

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p. II.
CLASSICAL
HÆOLO-
IS AND
'LOWERS.

Both to the *Edinburgh Review* and to the *Classical Journal* Mr. KNIGHT was a frequent and valuable contributor. It was in the latter periodical that his *Prolegomena* to HOMER were first given to the world, although he had printed a small edition (limited to fifty copies) for private circulation, as early as in the year 1808.* His latest poetical work, the Romance of *Alfred*, I have never had the opportunity of reading.

Richard Payne KNIGHT died on the twenty-fourth of April, 1824, in the 75th year of his age. He bequeathed his whole Collections to the British Museum, of which he had long been a zealous and faithful Trustee. He made no conditions, other than that his gift should be commemorated by the addition to the Trust of a perpetual KNIGHT 'Family Trustee.'

For this purpose a Bill was introduced into Parliament by Lord COLCHESTER on the eighth of June. It received the royal assent on the seventeenth.

The addition of Mr. KNIGHT's Greek Coins made the British Museum superior, in that department, to the Royal Museum of Paris; the addition of his bronzes raised it above the famous Museum of Naples. By the most competent judges it has been estimated that, if the Collection had been sold by public auction, Mr. KNIGHT's representatives would probably have obtained for it the sum of sixty thousand pounds.

* *Carmina Homerica Ilias et Odyssea a rapsidorum interpolationibus repurgata, et in pristinam formam . . . redacta; cum notis ac prolegomenis, . . . opera et studio Richardi Payne Knight. 1808, 8vo.*

CHAPTER III.

GROUP OF BOOK-LOVERS AND PUBLIC BENEFACTORS.

'If we were to take away from the Museum Collection [of Books] the King's Library, and the collection which George the Third gave before that, and then the magnificent collection of Mr. Cracherode, as well as those of Sir William Musgrave, Sir Joseph Banks, Sir Richard Colt Hoare, and many others,—and also all the books received under the Copyright Act,—if we were to take away all the books so given, I am satisfied not one half of the books [in 1836], nor one third of the *sales* of the Library, has been procured with money voted by the Nation. The Nation has done almost nothing for the Library. . . .

'Considering the British Museum to be a National Library for research, its utility increases in proportion with the very rare and costly books, in preference to modern books. . . . I think that scholars have a right to look, for these expensive works, to the Government of the Country. . . .

'I want a poor student to have the same means of indulging his learned curiosity,—of following his rational pursuits,—of consulting the same authorities,—of fathoming the most intricate inquiry,—as the richest man in the kingdom, as far as books go. And I contend that Government is bound to give him the most liberal and unlimited assistance in this respect. I want the Library of the British Museum to have books of both descriptions. . . .

'When you have given a hundred thousand pounds,—in ten or twelve years,—you will begin to have a library worthy of the British Nation.'—

ANTONIO PANIZZI—*Evidence before Select Committee on British Museum*, 7th June, 1836. (Q. 4786—4795.)

of some early Donors of Books.—The Life and Collections of Clayton Mordaunt CRACHERODE.—William TTY, first Marquess of Lansdowne, and his Library Manuscripts.—The Literary Life and Collections of Charles BURNEY.—Francis HARGRAVE and his Manuscripts.—The Life and Testamentary Foundations Francis Henry EGERTON, Ninth Earl of Bridgewater.

Reader has now seen that, within some twelve or ears, a Collection of Antiquities, comparatively small gnificant, was so enriched as to gain the aspect of a l Museum of which all English-speaking men might

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be proud, and mere fragments of which enlightened Foreign Sovereigns were under sore temptation to covet. He has seen, also, that the praise of so striking a change was due, in the main, to the public spirit and the liberal endeavours of a small group of antiquarians and scholars. They were, most of them, men of high birth, and of generous education. They were, in fact, precisely such men as, in the jargon of our present day, it is too much the mode to speak of as the antitheses of 'the People,' although in earlier days men of that strain were thought to be part of the very core and kernel of a nation.

But if it be undeniably true that the chief and primary merit of so good a piece of public service was due to the HAMILTONS, TOWNELEYS, ELGINS, and KNIGHTS of the last generation, it is also true that the Public, through their representatives, did, at length, join fairly in the work by bearing their part of the cost, though they could share neither the enterprise, the self-denial, nor the wearing toils, which the work had exacted.

Now that the story turns to another department of the National Museum, we find that the same primary and salient characteristic—private liberality of individuals, as distinguished from public support by the Kingdom—still holds good. But we have to wait a very long time indeed, before we perceive public effort at length falling into rank with private, in the shape of parliamentary grants for the purchase of books, calculated even upon a rough approximation towards equality.

As COTTON, SLOANE, HARLEY, and Arthur EDWARDS, were the first founders of the Library, so BIRCH, MUSGRAVE, TYRWHITT, CRACHERODE, BANKS, and HOARE, were its chief augmentors, until almost ninety years had elapsed since the Act of Organization. Of the Collections of those

benefactors, eight came by absolute gift. For the other much less than one half of their value was returned to representatives of the founders. And that, it has been seen, was provided, not by a parliamentary grant, but out of the profits of a lottery.

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The first important addition to the Library, subsequent to those gifts which have been mentioned in a preceding chapter as nearly contemporaneous with the creation of the Museum, was made by the Will of Dr. Thomas BIRCH, one of the original Trustees. It comprised a valuable series of manuscripts, rich in collections on the history, and especially the biographical history, of the realm, and a considerable number of printed books of a like character.

BEQUEST OF
DR. THOMAS
BIRCH,
January,
1766.

Dr. BIRCH was born in 1705, and died on the ninth of May, 1766. He was one of the many friends of Sir Hans SLOANE, in the later years of Sir Hans' life. When the Museum was in course of organization, BIRCH acted not only as a zealous Trustee, but he occasionally supplied the place of Dr. MORTON as Secretary. His literary productions have real and enduring value, though their value probably have been greater had their number been greater. His activity is sufficiently evidenced by the works which he printed, but can only be measured when the manuscript collections which he bequeathed are taken into account. Very few scholars will now be inclined to repeat Horace WALPOLE's inquiry—made when he saw the catalogue of the Birch MSS.—‘Who cares for the correspondence of Dr. BIRCH?’

After the receipt of the BIRCH Collection, a choice collation of English plays was bequeathed to the Museum by David GARRICK. Its formation had been one of the favorite relaxations of the great actor. And the study of

BEQUEST OF
DAVID
GARRICK,
January,
1779.

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the plays gathered by GARRICK had a large share in moulding the tastes and the literary career of Charles LAMB. Thence he drew the materials of the volume of *Specimens* which has made the rich stores of the early drama known to thousands of readers who but for it, and for the Collection which enabled him to compile it, could have formed no fair or adequate idea of an important epoch in our literature.

NEFAC-
 ON OF SIR
 . MUS-
 AVE.

Sir William MUSGRAVE was another early Trustee whose gifts to the Public illustrated the wisdom of SLOANE's plan for the government of his Museum and of its parliamentary adoption. MUSGRAVE shared the predilection of Dr. BIRCH for the study of British biography and archæology, and he had larger means for amassing its materials. He was descended from a branch of the Musgraves of Edenhall, and was the second son of Sir Richard MUSGRAVE of Hayton Castle, to whom he eventually succeeded. He made large and very curious manuscript collections for the history of portrait-painting in England (now *Additional MSS.* 6391-6393), and also on many points of the administrative and political history of the country. He was a zealous Trustee of the British Museum, and in his lifetime made several additions to its stores. On his death, in 1799, all his manuscripts were bequeathed to the Museum, together with a Library of printed British Biography—more complete than anything of its kind theretofore collected.

This last-named Collection extended (if we include a partial and previous gift made in 1790) to nearly two thousand volumes, and it probably embraced much more than twice that number of separate works. For it was rich in those biographical ephemera which are so precious to the historical inquirer, and often so difficult of obtainment, when needed. Nearly at the same period (1786) a

ble Collection of classical authors, in about nine hundred volumes, was bequeathed by another worthy Trustee, Thomas TYRWHITT, distinguished both as a scholar and Editor of CHAUCER.

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At all the early gifts to the Museum, made after its elementary organization, were eclipsed, at the close of the century, by the bequest of the Cracherode Collections. This bequest comprised a very choice library of printed books; a cabinet of coins, medals, and gems; and a series of original drawings by the great masters, chosen, like the coins and the medals, with exquisite taste, and, as the connoisseurs say, quite regardless of expense. It also included a small but precious cabinet of minerals.

THE
BEQUEST
OF THE
CRACHERODE
COLLECTION.

1799.

The collector of these rarities was wont to speak of them with great modesty. They are, he would say, mere men's collections.' But to amass them had been the pursuit of a quiet and blameless life.

John Mordaunt CRACHERODE was born in London in the year 1730. And he was 'a Londoner' in a sense agreeable to which, in this railway generation, it would be difficult to find a parallel. Among the rich possessions he inherited from Colonel CRACHERODE, his father—whose fortune had been gathered, or increased, during an career in remote parts of the world—was an estate in Wiltshire, on which there grew a certain famous yew-tree, the cynosure of all the country-side for its antiquity. This tree was never seen by its new owner, save as he saw the poplars of Lombardy, or the cedars of Lebanon—in an etching. In the course of a long life he never reached a greater distance from the metropolis than the Strand. He never mounted a horse. The ordinary of his travels, during the prime years of a long life, was from Queen Square, in Westminster, to Clapham. For

LIFE AND
CHARACTER
OF MR.
MORDAUNT
CRACHERODE.

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almost forty years it was his daily practice to walk from his house to the shop of ELMSLY, a bookseller in the Strand, and thence to the still more noted shop of Tom PAYNE, by 'the Mews-Gate.' Once a week, he varied the daily walk by calling on MUDGE, a chronometer-maker, to get his watch regulated. His excursions had, indeed, one other and not infrequent variety—dictated by the calls of Christian benevolence—but of these he took care to have no note taken.

Early in life, and probably to meet his father's wish, he received holy orders, but he never accepted any preferment in the Church. He took the restraints of the clerical profession, without any of its emoluments. His classical attainments were considerable, but the sole publication of a long life of leisure was a university prize poem, printed in the *Carmina Quadragesimalia* of 1748. The only early tribulation of a life of idyllic peacefulness was a dread that he might possibly be called upon, at a coronation, to appear in public as the King's cupbearer—his manor of Great Wymondley being held by a tenure of grand-serjeantry in that onerous employment. Its one later tinge of bitterness lay in the dread of a French invasion. These may seem small sorrows, to men who have had a full share in the stress and anguish of the battle of life. But the weight of a burden is no measure of the pain it may inflict. Mr. CRACHERODE looked to his possible cupbearership, with apprehension just as acute as that with which COWPER contemplated the awful task of reading in public the Journals of the House of Lords. And the sleepless nights which long afterwards were brought to CRACHERODE by the horrors of the French revolutionary war were caused less by personal fears than by the dread of public calamities, more terrible than death. During one

of the devastations on the other side of the Channel, noticed by our daily papers, Mr. CRACHERODE was thought by his friends to have 'aged' full ten years in his old age.

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He was one active and incessant pursuer of this noiseless war. It was the gathering together of the most choice books, the rarest coins and gems, the most exquisite drawings and engravings, which money could buy, without the toils of travel. The collector's liberality of purse enabled him to profit, at his own expense, by the truth expressed in one of the wise maxims of SELDEN:—'The giving a dealer his price hath this advantage;—he that will do so shall have the refusal of whatever comes to the dealer's hand, and so by that means get many things which otherwise he never should have seen.' The enjoyment—almost a century ago—of six hundred pounds a year in land, and of nearly one hundred thousand pounds invested in the 'sweet simplicity' of the stock market, enabled Mr. CRACHERODE to outbid a host of many competitors. His natural wish that what he eagerly gathered should not be scattered to the four winds on the instant he was carried to his grave, and also the public spirit which dictated the choice of a national repository as the permanent abode of his Collections, has since made that long course of daily visits to the London Library in books, coins, and drawings, fruitful of good to the thousands of poorer students and toilers, during more than two generations. From stores such as Mr. CRACHERODE'S—now preserved—many a useful labourer gets part of his equipment for the tasks of his life. He, too, would have visited the 'PAYNES' and the 'ELMSLIES' of the library as keenly as any book-lover that ever lived, but is too poor, perhaps, obliged to content himself with an outside view of the treasures at the windows. Public libraries put him practi-

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cally on a level with the wealthiest connoisseur. When, as in this case—and in a hundred more—such libraries derive much of their best possessions from private liberality, a life like Mordaunt CRACHERODE's has its ample vindication, and the sting is taken out of all such sarcasms as that which was levelled—in the shape of the query, 'In all that big library is there a single book written by the Collector himself?'—by some snarling epistolary critic, when commenting on a notice that appeared in *The Times* on the occasion of Mr. CRACHERODE's death.

On another point our Collector was exposed to the shafts of sarcastic comment. He loved a good book to be printed on the very choicest material, and clothed in the richest fashion. The treasure within would not incline him to tolerate blemishes without.—

'Nusquam blatta, vel inquinata charta,
Sed margo calami notæque purus,
Margo latior, albus integerque,
Nec non copia larga pergainenæ.—
Adsint Virgilius, paterque Homerus,
Mundi pumice, purpuraque culti;
Et quicquid magica quasi arte freti
Faustusque Upilioque præstiterunt.

.
Hic sit qui nitet arte Montacuti,
Aut Paini, Deromique junioris;
Illic cui decus arma sunt Thuani,
Aut regis breve lilium caduci.'

In CRACHERODE's eyes, external charms such as these were scarcely less essential than the intrinsic worth of the author. 'Large paper' and broad pure margins are fancies which it needs not much culture or much wit to banter. But now and then, they are ridiculed by those who have just as little capacity to judge the pith and

stance of books, as of taste to appreciate beauty in
r outward form.*

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he solidity of those three per cents., and the plodding
everance of their owner, were in time rewarded by the
ction (1) of a library containing only four thousand
hundred volumes, but of which probably every volume
an average of the whole—was worth, in mercantile
some three pounds; (2) of seven portfolios of drawings,
more choice; (3) of a hundred portfolios of prints,
of which were almost priceless; and (4) of coins and
—such as the cameo of a lion on sardonyx, and the
lio of the *Discobolos*—worthy of an imperial cabinet.
he ruling passion kept its strength to the last. An
was buying prints, for addition to the store, when the
ctor was dying. About four days before his death,
CRACHERODE mustered strength to pay a farewell visit
e old shop at the Mews-Gate. He put a finely printed
ce (from the press of FOULIS) into one pocket, and a
paper *Cebes* into another; and then,—with a longing
at a certain choice *Homer*, in the course of which he
lly, and somewhat doubtingly, balanced its charms with
of its twin brother in Queen Square,—parted finally
the daily haunt of forty peripatetic and studious years.
yton Mordaunt CRACHERODE died towards the close
9. He bequeathed the whole of his collections to the
1, with the exception of two volumes of books. A
ot *Bible* was given to Shute BARRINGTON, Bishop

* “Or must I, as a wit, with learned air
Like Doctor Dibdin, to Tom Payne’s repair,
Meet Cyril Jackson and mild Cracherode there?
‘Hold!’ cries Tom Payne, ‘that margin let me measure,
And rate the separate value of the treasure’
Eager they gaze. ‘Well, Sirs, the feat is done.
Cracherode’s *Poetæ Principes* have won!’”

Mathias, *Pursuits of Literature*.

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of Durham; a princeps *Homer* to Cyril JACKSON, Dean of Christ Church. Those justly venerated men were his two dearest friends.

:
 LECTOR
 THE
 ISDOWNE
 NU-
 IPTS.

The next conspicuous donor to the Library of the British Museum was a contemporary of the learned recluse of Queen Square, but one whose life was passed in the thick of that worldly turmoil and conflict of which Mr. CRACHERODE had so mortal a dread. To the Collector of the 'Lansdowne Manuscripts,' political excitement was the congenial air in which it was indeed life to live. But he, also, was a man beloved by all who had the privilege of his intimate friendship.

William PETTY FITZMAURICK, third Earl of Shelburne, and first Marquess of Lansdowne, was born in Dublin, in May, 1737. He was the son of John, Earl of Shelburne in the peerage of Ireland, and afterwards Baron Wycombe in the peerage of Great Britain. The Marquess's father united the possessions of the family founded by Sir William PETTY with those which the Irish wars had left to the ancient line of Fitzmaurice.

William, Earl of SHELBURNE, was educated by private tutors, and then sent to Christ Church, Oxford. He left the University early, to take (in or about the year 1756) a commission in the Guards. He was present in the battles of Camper and of Minden. At Minden, in particular, he evinced distinguished bravery. In May, 1760, and again in April, 1761, he was elected by the burgesses of High Wycombe to represent them in the House of Commons. But the death of Earl John, in the middle of 1761, called his son to take his seat in the House of Lords. He soon evinced the possession of powers eminently fitted to shine in Parliament. The impetuosity he had shown on the field

linden did not desert him in the strife of politics. e who had listened to the early speeches of PITT might think that the army had again sent them a 'terrible et of horse.' So good a judge of political oratory as Lord CAMDEN thought SHELBURNE to be second only IATHAM himself.

ord SHELBURNE's first speech in Parliament—the first, ist, that attracted general notice—was made in support e Court and the Ministry (November 3, 1762). Within han six months after its delivery he was called to the

Council, and placed at the head of the Board of Trade Plantations. This appointment was made on the of April, 1763. Just before it he had taken part in elicate negotiation between Lord BUTE and Henry Fox wards Lord HOLLAND) which has been kept well in ory by a jest of the man who thought himself the loser

This early incident is in some sort a key to many incidents in Lord SHELBURNE's life.

; in all the acts and offices of a political career, save one, Lord SHELBURNE was characteristically a lover of vords. In debate, he could speak scathingly. In rsation, he was always under temptation to flatter his xutor. In this conversation of 1763 with Fox, SHEL-'s innate love of smoothing asperities co-operated with lief that it was really for the common interest that and Fox should come to an agreement, to make him e premier's offer into the most pleasing light. When ound he was to get less than he thought to have, he y assailed the negotiator. Lord SHELBURNE's friends on his love of peace and good-fellowship. At worst, hey, it was but a 'pious fraud.' 'I can see the plainly enough,' rejoined Fox, 'but where is the

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SHELBURNE
AND HENRY
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The office accepted in April was resigned in September, when the coalition with 'the BEDFORD party' was made. Lord SHELBURNE's loss was felt in the House of Lords. But it was in the Commons that the Ministry were now feeblest. 'I don't see how they can meet Parliament,' said CHESTERFIELD. 'In the Commons they have not a man with ability and words enough to call a coach.'

IMATION
LORD
EL-
INE'S
IBARY.

In February, 1765, SHELBURNE married Lady Sophia CARTERET, one of the daughters of the Earl of GRANVILLE. The marriage was a very happy one. Not long after it, he began to form his library. Political manuscripts, state papers of every kind, and all such documents as tend to throw light on the arcana of history, were, more especially, the objects which he sought. And the quest, as will be seen presently, was very successful. For during his early researches he had but few competitors.

E SECRE-
YSHIP
STATE.
H. 1768.

On the organization of the Duke of GRAFTON's Ministry in 1766 (July 30) Lord SHELBURNE was made Secretary of State for the Southern Department, to which at that time the Colonial business was attached. His colleague, in the Northern, was CONWAY, who now led the House of Commons. As Secretary, Lord SHELBURNE's most conspicuous and influential act was his approval of that rejection of certain members of the Council of Massachusetts by Governor BERNARD, which had so important a bearing on colonial events to come.

SHELBURNE, however, was one of a class of statesmen of whom, very happily, this country has had many. He was able to render more efficient service in opposition than in office. Of the Board of Trade he had had the headship but a few months. As Secretary of State, under the GRAFTON Administration, he served little more than two years. His opponents were wont to call him an 'impracticable' man.

if he shared some of CHATHAM's weaknesses, he also had much of his greatness. And on the capital question of the American dispute, they were at one. They both thought that the Colonies had been atrociously misgoverned. They were willing to make large concessions to regain the loyalty of the Colonists. They were utterly averse to admit severance.

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Under circumstances familiar to all readers, and by the personal urgency of the King, Lord SHELBURNE was dismissed from his first Secretaryship in October, 1768. His dismissal led to CHATHAM's resignation. SHELBURNE became a prominent and powerful leader of the Opposition, and a target of special dislike to a large force of political adversaries, and of warm attachment to a small number of political friends. His personal friends were, at all times, many.

LORD SHELBURNE IN
OPPOSITION.

A nickname under which his opponents were wont to refer to him has been kept in memory by one of the many beauties of speech which did such cruel injustice to the talents and the generous heart of GOLDSMITH. The story has been many times told, but will bear to be told once again. The author of the *Vicar of Wakefield* was an occasional supporter of the Opposition in the newspapers. One day, in the autumn of 1773, he wrote an article in praise of Lord SHELBURNE's ardent friend in the City, the Lord Mayor of London, HENRY BEAUFORT. Sitting, in company with Topham BEAUFORT at Drury Lane Theatre, just after the appearance of the article, GOLDSMITH found himself close beside Lord SHELBURNE. His companion told the statesman that his friend's eulogy came from GOLDSMITH's pen. 'I have said his Lordship—addressing the poet—'you put me in it about Malagrida?' 'Do you know,' rejoined GOLDSMITH, 'I could never conceive the reason why you call him "Malagrida,"—for Malagrida was a very good

1773.
November.
Hardy,
*Life of Lord
Charlemont*,
vol. i, p. 177.

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sort of man.' This small misplacement of an emphasis was of course quoted in the clubs against the unlucky speaker. 'Ah!' said Horace WALPOLE, with his wonted charity, 'that's a picture of the man's whole life.'

Lord SHELBURNE's library profited by his long release-ment from the cares of office. He bestowed much of his leisure upon its enrichment, and especially upon the acquisition of manuscript political literature. In 1770, he was fortunate enough to obtain a considerable portion of the large and curious Collection of State Papers which Sir Julius CÆSAR had begun to amass almost two centuries before. Two years later, he acquired no inconsiderable portion of that far more important series which had been gathered by BURGHLEY.

THE CÆSAR
PAPERS.

Whilst Lord SHELBURNE was serving with the army in Germany, the 'Cæsar Papers' had been dispersed by auction. There were then—1757—a hundred and eighty-seven of them. About sixty volumes were purchased by Philip Cartaret WEBB, a lawyer and juridical writer, as well as antiquary, of some distinction. On Mr. WEBB's death, in 1770, these were purchased by SHELBURNE from his executors. On examining his acquisition, the new possessor found that about twenty volumes related to various matters of British history and antiquities; thirty-one volumes to the business of the British Admiralty and its Courts; ten volumes to that of the Treasury, Star Chamber, and other public departments; two volumes contained treaties; and one volume, papers on the affairs of Ireland.

THE CECIL
OR BURGH-
LEY PAPERS.

The 'Burghley papers,' acquired in 1772, had passed from Sir Michael HICKES, one of that statesman's secre-taries, to a descendant, Sir William HICKES, by whom they were sold to CHISWELL, a bookseller, and by him to

the historian. These (as has been mentioned in the former chapter) were looked upon with somewhat anxious eyes by Humphrey WANLEY, who hoped to have them become part of the treasures of the Harleian library. On STRYPE's death they passed into the hands of James WEST, and from his executors into the Library at Shelburne House. They comprised a hundred and fifty-one volumes of the collections and correspondence of Lord BURGHLEY, together with his private note-book and journal.

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Another valuable acquisition, made after Lord SHELBURNE's retirement in 1768 from political office, consisted of vast historical Collections of Bishop White KENNETT, amounting to a hundred and seven volumes, of which a large proportion are in the Bishop's own untiring hand. Fifty-two of these volumes contain important materials for English Church History. Eleven volumes contain chronological collections, ranging between the years 1500 and 1717. All that have been enumerated are now national property.

Other choice manuscript collections were added from time to time. Among them may be cited the papers of Lord RYCAUT—which include information both on English and on Continental affairs towards the close of the seventeenth century; the correspondence of Dr. John HANCOCK and that of the Jacobite Earl of MELFORT.

These varied accessions—with many others of minor importance—raised the Shelburne Library into the first among private repositories of historical lore. To devote his life to study them was to prove to its owner the source of deep personal affliction, as well as the relief of his sorrows. At the close of 1770, he lost a beloved wife,

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BURNE AS A
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after a union of less than six years. He remained a widower until 1779.

Another source of solace was found in labours that have an inexhaustible charm, for those who are so happy as to have means as well as taste for them. Lord SHELBURNE lived much at Loakes—now called Wycombe Abbey—a delightful seat, just above the little town of High Wycombe. Its striking framework of beech-woods, its fine plane-trees and ash-trees, and its broad piece of water, make up a lovely picture, much of the attraction of which is due to the skill and judgment with which its then owner elicited and heightened the natural beauties of the place.* But those of Bowood exceeded them in Lord SHELBURNE'S eyes. There, too, he did very much to enhance what nature had already done, and he had the able assistance of Mr. HAMILTON of Pains-Hill. In consequence of their joint labours, almost every species of oak may be seen at Bowood, with great variety of exotic trees of all sorts. Both wood and water combine to make, from some points of view, a resemblance between Wycombe and Bowood. And both differ from many much bepraised country seats in the wise preference of natural beauty—selected and heightened—to artificial beauty. Lord SHELBURNE himself was wont to say: 'Mere workmanship should never be introduced where the beauty and variety of the scenery are, in themselves, sufficient to excite admiration.'

But, in their true place, few men better loved the productions of artistic genius. He collected pictures and sculpture, as well as trees and books. He was the first of

* Loakes had been purchased from the last owner of the Archdall family by Henry, Earl of Shelburne. Earl William (first Marquess of Lansdowne) eventually sold it to the ancestor of the present Lord Carrington.

ame who made Lansdowne House in London, as well
oakes and Bowood in the country, centres of the best
ty in the intellectual as well as in the fashionable
l.

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ars passed on. The course of public events—and
ially the death of Lord CHATHAM and the issues of
merican war—together with many conspicuous proofs
powers in debate, tended more and more to bring
SHELBURNE to the front. Between him and Lord
INGHAM, as far as regards real personal ability—
er parliamentary or administrative—there could, in
be little ground for comparison. But in party con-
n and following, the claims of the inferior man were
estible. Lord SHELBURNE, towards the close of
signified his readiness to waive his pretensions to
he lead—in the event of the overthrow of the ex-
Government—and his willingness to serve under
ROCKINGHAM; so little truth was there in the asser-
nade by Horace WALPOLE to his correspondent at
ce, that SHELBURNE ‘will stick at nothing to gratify
bition.’

H. Walpole
to Mann;
1780.
March 21.

that very charge is, in fact, a tribute. WALPOLE’S
ation had been excited just at that moment by the
assistance which SHELBURNE had given, in the
of Lords, to the efforts of BURKE in the lower
in favour of economical reforms. He had brought
d a motion on that subject on the same night on
BURKE had given notice for the introduction of
ous Bill (December, 1779). He continued his
and presently had to encounter a more active and
cious opponent of retrenchment than Horace WAL-

he course of a vigorous speech on reform in the

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LORD SHEL-
BURNE'S
DUEL WITH
FULLERTON.

administration of the army, Lord SHELBURNE had censured a transaction in which Mr. FULLERTON, a Member of the House of Commons, was intimately concerned. FULLERTON made a violent attack, in his place in the House, upon his censor. But his speech was so disorderly that he was forced to break off. In his anger he sent Lord SHELBURNE a minute, not only of what he had actually spoken, but of what he had intended to say, in addition, had the rules of Parliament permitted. And he had the effrontery to wind up his obliging communication with these words:—‘You correspond, as I have heard abroad, with the enemies of your country.’ His letter was presented to Lord SHELBURNE by a messenger.

The receiver, when he had read it, said to the bearer: ‘The best answer I can give Mr. FULLERTON is to desire him to meet me in Hyde Park, at five, to-morrow morning.’ They fought, and SHELBURNE was wounded. On being asked how he felt himself, he looked at the wound, and said: ‘I do not think that Lady SHELBURNE will be the worse for this.’ But it was severe enough to interrupt, for a while, his political labours.

HIS SECRETARYSHIP
IN THE
ROCKINGHAM ADMINISTRATION.

On the formation in March, 1782, of the Rockingham Administration, he accepted the Secretaryship of State, and took with him four of his adherents into the Cabinet. But the most curious feature in the transaction was that Lord SHELBURNE carried on, personally, all the intercourse in the royal closet that necessarily preceded the formation of the Ministry, although he was not to be its head. GEORGE THE THIRD would not admit Lord ROCKINGHAM to an audience until his Cabinet was completely formed. The man whose exclusion from the Grafton Ministry the King had so warmly urged a few years before, was now not less warmly urged by him to throw over his party, and to

a cabinet of his own. He resisted all blandishment, virtually told the King that the triumph of the Opposition must be its triumph as an unbroken whole; though doubtless felt, within himself, that the cohesion was of a remarkably frail tenacity.

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On the 24th of March, SHELBURNE had the satisfaction of conveying to Lord ROCKINGHAM the royal concession of constitutional demands—obtained after a wearisome negotiation, and only by the piling up of argument on argument in successive conversations at the ‘Queen’s levee,’ lasting sometimes for three mortal hours. Three days afterwards, the new Premier was dead. And with his departure departed the cohesion of the Whigs.

DEATH OF
LORD ROCK-
INGHAM,
1782, 1 July.

Secretary of State, Lord SHELBURNE’s chief task was to maintain the control of that double and most unwelcome negotiation which was carried on at Paris with France and America.* For it had fallen to the lot of the utterer of the ‘sunset-speech,’†—‘if we let America go, the sun of Britain is set’—to arrange the terms of American negotiation. And the obstructions in that path which were created at home were even more serious stumbling-blocks than were the difficulties abroad. The cardinal principles of Lord SHELBURNE’s policy, at this time, were to buy by hook or crook, some amount or other of hold on America, and at the worst to keep the Court of St. James from enjoying the prestige, or setting up the pretence of having dictated the terms of peace.

FORMATION
OF LORD
SHEL-
BURNE’S
MINISTRY.

* See, here-
after, in life
of T. Gren-
ville,
Book III, c. 2.

At the split in the Whig party was really and altogether a famous speech was delivered on the 5th of March, 1778. ‘Then,’ said Shelburne, after denouncing measures which would sever the connection from the Kingdom, ‘the sun of Great Britain is set. We shall never be a powerful or even a respectable people.’—*Parliamentary* vol. xix, col. 850.

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Walpole to
Mann (from
an eye wit-
ness), 1782,
July 7.

*Parliamen-
tary Debates*,
vol. xxiii,
col. 194.

MERITS OF
THE SHEL-
BURNE
MINISTRY.

gether inevitable, now that ROCKINGHAM's death had placed SHELBURNE above reasonable competition for the premiership, was made known to him when at Court, in the most abrupt manner. On the 7th of July (six days after the death of the Marquess), Fox took him by the sleeve, with the blunt question: 'Are you to be First Lord of the Treasury?' When SHELBURNE said 'Yes,' the instant rejoinder was, 'Then, my Lord, I shall resign.' Fox had brought the seals in his pocket, and proceeded immediately to return them to the King.

In his first speech as Premier, Lord SHELBURNE spoke thus:—'It has been said that I have changed my opinion about the independence of America. . . . My opinion is still the same. When that independence shall have been established, the sun of England may be said to have set. I have used every effort, public and private—in England, and out of it—to avert so dreadful a disaster. . . . But though this country should have received a fatal blow, there is still a duty incumbent upon its Ministers to use their most vigorous exertions to prevent the Court of France from being in a situation to dictate the terms of Peace. The sun of England may have set. But we will improve the twilight. We will prepare for the rising of that sun again. And I hope England may yet see many, many happy days.'

The best achievements of the brief government of Lord SHELBURNE were (first) the resolute defence, in its diplomacy at Paris and Versailles, of our territories in Canada, and (secondly) its consistent assertion of the principle that underlay a sentence contained in a former speech of the Premier—a sentence which, at one time, was much upon men's lips:—'I will never consent,' he had said, 'that the King of England shall be a King of the Mahrattas.' The

ts, I venture to think, of that short Ministry, have had
t acknowledgment in our current histories. And the
on is, perhaps, not far to seek.

he popular history of GEORGE THE THIRD's reign has
, in a large degree, imbued with Whiggism. The his-
ns most in vogue have had a sort of small apostolical
ession amongst themselves, which has had the result of
g a strong party tinge to those versions of the course of
ical events in that reign which have most readily
ed the public ear. When the full story shall come to
ld, in a later day and from a higher stand-point, Lord
BURNE, not improbably, will be one among several
men whose reputation with posterity (in common—in
measure—with that of their royal master himself, it
ven be) will be found to have been elevated, rather than
ed, by the process.

t, be that as it may, party intrigue, rather than minis-
incapacity, had to do, confessedly, with the rapid
row of the Government of July, 1782.

sonally, Lord SHELBURNE was in a position which, in
l points of view, bears a resemblance to that in which
er able statesman, who had to fight against a powerful
, was to find himself forty years later. But in
BURNE's case, the struggle of the politician did not, as
NING's, break down the bodily vigour of the man.
SHELBURNE had twenty-two years of retirement yet
him, when he resigned the premiership in 1783. And
ere years of much happiness.

: of that happiness was the result of the domestic
just adverted to. Another part of it accrued from
h Library which the research and attention of many
ad gradually built up, and from the increased leisure
ad now been secured, both for study and for the

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vol. xix,
col. 850.

THE CLOSING
YEARS OF
LORD LANS-
DOWNE'S
LIFE.

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enjoyment of the choice society which gathered habitually at Lansdowne House and at Bowood.

Lord SHELburne's retirement had been followed, in 1784, by his creation as Earl Wycombe and Marquess of Lansdowne. In the following year, he sold the Wycombe mansion and its charming park to Lord CARRINGTON. Thenceforward, Bowood had the benefit, exclusively, of his taste and skill in landscape-gardening. Unfortunately, his next successor, far from continuing his father's work, did much to injure and spoil it. But the third Marquess, in whom so many of his father's best qualities were combined with some that were especially his own, made ample amends.

The exciting debates which grew out of the French Revolution and the ensuing events on the Continent, called Lord LANSDOWNE, now and then, into the old arena. But the domestic employments which have been mentioned, together with that which was entailed by a large and varied correspondence, both at home and abroad, were the things which chiefly filled up his later years. The Marquess died in London on the seventh of May, 1805. He was but sixty-eight years of age, yet he was then the oldest general officer on the army list, having been gazetted as a major-general just forty years before.

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In order to acquire for the nation that precious portion of Lord LANSDOWNE's Library which was in manuscript, the national purse-strings were now, for the first time, opened on behalf of the literary stores of the British Museum. Fifty-three years had passed since its complete foundation as a national institution, and exactly twice that number of years since the first public establishment of the Cottonian Library, yet no grant had been hitherto made by Par-

ent for the improvement of the national collections of
S.

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our thousand nine hundred and twenty-five pounds was
sum given to Lord LANSDOWNE's executors for his
uscripts. Besides the successive accumulations of
e Papers heretofore mentioned, the LANSDOWNE Col-
on included other historical documents, extending in
from the reign of HENRY THE SIXTH to that of
RGE THE THIRD; the varied Collections of William
RT on parliamentary and juridical lore; those of WAR-
TON on the topography and family history of Yorkshire,
of HOLLES, containing matter of a like character for
ocal concerns of the county of Lincoln; the Heraldic
Genealogical Collections of SEGAR, SAINT GEORGE,
DALE, and LE NEVE; and a most curious series of
treatises upon music, which had been collected by
WYLDE, who was for many years precentor of
ham Abbey, in the time of the second of the Tudor
archs.

e Lansdowne Collection did not contain very much
classical character. Its strength, it has been seen
ly, lay in the sections of Modern History and Politics.
next important addition to the Library of the Museum
t of the manuscripts and printed books of Francis
RAVE—was likewise chiefly composed of political
uridical literature. But the third parliamentary
ition brought to the Museum a store of classical
, both in manuscripts and in printed books. HAR-
's Legal Library was bought in 1813. Charles BUR-
Classical Library was bought in 1818. In the biogra-
point of view neither of these men ran a career
offers much of narrative interest. The one career

THE ACQUI-
SITION OF
THE HAR-
GRAVE AND
BURNLEY
LIBRARIES.

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was that of a busy lawyer; the other, that of a laborious, scholar. But to BURNÉY's life a few sentences may be briefly and fitly given.

The second Charles BURNÉY was a younger son of the well-known historian of Music, who for more than fifty years was a prominent figure in the literary circles—and especially in the Johnsonian circle—of London; and in whose well-filled life a very moderate share of literary ability was made to go a long way, and to elicit a very resonant echo. That 'clever dog BURNÉY,' as he was wont to be called by the autocrat of the dinner-table, had the good fortune to be the father of several children even more clever than himself. Their reputation enhanced his own.

E LIFE
 D LI-
 LARY
 FERS OF
 . CHAS.
 BURNÉY.

Charles BURNÉY, junior, was born at Lynn, in Norfolk, on the 10th of December, 1757. He was educated at the Charter House in London, at Caius College, Cambridge, and at King's College, Aberdeen. At Aberdeen, BURNÉY formed a friendship with Dr. DUNBAR, a Scottish professor of some distinction, and an incident which grew, in after-years, out of that connection, determined the scene and character of the principal employments of BURNÉY's life. He devoted himself to scholastic labours, in both senses of the term; their union proved mutually advantageous, and as tuition gave leisure for literary labour, so the successful issues of that labour spread far and wide his fame as a schoolmaster. He was one of the not very large group of men who in that employment have won wealth as well as honour. It was finely said, many years ago—in one of the State Papers written by GUIZOT, when he was Minister of Public Instruction in France—'the good schoolmaster must work for man, and be content to await his reward from God.' In BURNÉY's case, the combined

industry of an energetic man at the author's writing-table, at the master's desk, and also (it must in truthful labour be added) at his flogging block,* brought him a large fortune as well as a wide-spread reputation. This fortune enabled him to collect what, for a schoolmaster, I imagine to have been a Classical Library hardly ever rivalled in beauty and value. It was the gathering of a deeply read critic, as well as of an openhanded purchaser.

The bias of Dr. BURNEY's learning and tastes in literature led him to a preference of the Greek classics far above the Latin. Naturally, his Library bore this character for its counterpart. He aimed at collecting Greek authors—especially the dramatists—in such a way that the location of his copies gave a sort of chronological view of the literary history of the books and of their successive editions.

For the tragedians, more particularly, his researches were brilliantly successful. Of *Æschylus* he had amassed 17-seven editions; of *Sophocles*, one hundred and two; *Euripides*, one hundred and sixty-six.

His first publication was a sharp criticism (in the *Monthly Review*) on Mr. (afterwards Bishop) HUNTINGFORD's Collection of Greek poems entitled *Monostrophica*. This was published, in 1789, by the issue of an Appendix to SCALDER's Lexicon; and in 1807 by a collection of the correspondence of BENTLEY and other scholars. Two years after he gave to students of Greek his *Tentamen de Metris Æschylo in choricis cantibus adhibitis*, and to the youthful students his meritorious abridgment of Bishop PEARSON's

More than one of Burney's scholars was accustomed to speak feelingly on the topic of ancient school 'discipline' when any passing incident led the talk in that direction in after life.

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Exposition of the Creed. In 1812, he published the *Lexicon* of PHILEMON.

The only Church preferments enjoyed by Dr. BURNBY were the rectory of St. Paul, Deptford, near London, and that of Cliffe, also in Kent. His only theological publication—other than the abridgment of PEARSON—was a sermon which he had preached in St. Paul's Cathedral in 1812. Late in life he was made a Prebendary of Lincoln.

Like his father, and others of his family, Charles BURNBY was a very sociable man. He lived much with PARR and with PORSON, and, like those eminent scholars, he had the good and catholic taste which embraced in its appreciations, and with like geniality, old wine, as well as old books. He was less wise in nourishing a great dislike to cool breezes. 'Shut the door,' was usually his first greeting to any visitant who had to introduce himself to the Doctor's notice; and it was a joke against him, in his later days, that the same words were his parting salutation to a couple of highwaymen who had taken his purse as he was journeying homewards in his carriage, and who were adding cruelty to robbery by exposing him to the fresh air when they made off.

DICE
 'ES IN
 BNEY'S
 RARY.

Some of Dr. BURNBY's choicest books were obtained when the Pinelli Library was brought to England from Italy. The prime ornament of his manuscript Collection, a thirteenth century copy of the *Iliad*, of great beauty and rich in scholia, was bought at the sale of the fine Library of Charles TOWNELEY, Collector of the Marbles.

Although classical literature was the strength of the BURNBY Collection, it was also rich in some other departments. Of English newspapers, for example, he had brought together nearly seven hundred volumes of the

seventeenth and eighteenth centuries, reaching from the reign of JAMES THE FIRST to the reign of GEORGE THE THIRD. No such assemblage had been theretofore formed, at least, by any Collector. He had also amassed nearly four hundred volumes containing materials for a history of the English Stage, which materials have subsequently been largely used by Mr. GENEST, in his work on that subject. BURNEY's life-long study of the Greek drama had gradually inspired him with a desire to trace what, in a sense, may be termed its modern revival, in the grand sequel given to it by SHAKESPEARE and his contemporaries. He also collected about five thousand engraved theatrical portraits, and two thousand portraits of literary persons.

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A large number of his printed books contained marginal manuscript notes by BENTLEY, CASAUBON, BURMANN, and other noted scholars. And in a series of one hundred and thirty volumes BURNEY had himself collected all the fragments and remains of Greek dramatic writers—about three hundred in number. These remains he had arranged under the collective title of *Fragmenta Scenica Græca*.

A splendid vellum manuscript of the Greek orators, which had been obtained in the fifteenth century, had been obtained by Dr. CLARKE, by whom it had been acquired during ELGIN's Ottoman Embassy, and brought into England. It supplied lacunæ which are found wanting in all other Greek manuscripts. It completed an imperfect oration of Demosthenes, and another of Dinarchus. Another MS. of the Greek orators, of the fifteenth century, is only next in value to that derived from CLARKE's researches in the East, of the same period.

There is also a very fine manuscript of the Geography of PTOLEMY, with maps compiled in the fifteenth

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century, and two very choice copies of the Greek *Gospels*, one of which is of the tenth, and the other of the twelfth centuries.

In Latin classics, the BURNEY Manuscripts include a fourteenth century *Plautus*, containing no fewer than twenty plays—whereas a manuscript containing even twelve plays has long been regarded as a rarity. A fifteenth century copy of the mathematical tracts collected by PAPPUS ALEXANDRINUS, a *Callimachus* of the same date, and a curious Manuscript of the *Asinus Aureus* of APULEIUS, are also notable. The whole number of Classical Manuscripts which this Collector had brought together was stated, at the time of his death, to be three hundred and eighty-five.

Dr. BURNEY died on the twenty-eighth of December, 1817, having just entered upon his sixty-first year. He was buried at Deptford, amidst the lamentations of his parishioners at his loss.

TOR
 BNEY'S
 CHARACTER.

For in BURNEY, too, the scholar and the Collector had not been suffered to dwarf or to engross the whole man. His parishioners assembled, soon after his death, to evince publicly their sense of what Death had robbed them of. The testimony then borne to his character was far better, because more pertinent, laudation, than is usually met with in the literature of tombstones. Those who had known the man intimately then said of him: 'His attainments in learning were united with equal generosity and kindness of heart. His impressive discourses from the pulpit became doubly beneficial from the influence of his own example.' The parishioners agreed to erect a monument to his memory, 'as a record of their affection for their revered pastor, monitor, and friend; of their gratitude for his services, and of their unspeakable regret for his loss.'

another meeting was called shortly afterwards, with a object, but of another sort. Despite his reverence for beian traditions, Dr. BURNLEY had known how to win love of his pupils. A large body of them met, under chairmanship of the excellent John KAYE, then Regius fessor of Divinity at Cambridge, and afterwards Bishop Lincoln, and they subscribed for the placing of a monu- t to their old master in Westminster Abbey.

On the twenty-third of February, 1818, the Trustees of British Museum presented to the House of Commons petition, praying that Dr. BURNLEY'S Library should be ired for the Public. The prayer of the petition was orted by Mr. BANKES and by Mr. VANSITTART, and lect Committee was appointed to inquire and report the application.

order to an accurate estimate of the value of the yry, a comparison was instituted, in certain particulars, een its contents and those of the Collection already in ational Museum. In comparing the works of a series enty-four Greek authors, it was found that of those rs, taken collectively, the Museum possessed only two red and thirty-nine several editions, whereas Dr. es BURNLEY had collected no fewer than seven hundred twenty-five editions.* His Collection of the Greek atists was not only, as I have said, extensive, but it rrayed after a peculiar and interesting manner. By ng a considerable sacrifice of duplicate copies, he had ht his series of editions into an order which exhi-

is small fact in classical bibliography is remarkable enough to some particular exemplifications, beyond those given in the text, mer page. Of the three greatest Greek dramatists, Burney had tions against 75 in the Library of the British Museum. Of he had 87 against 45; of Aristophanes, 74 against 23; of Demos- 50 against 18; and of the *Anthologia*, 30 against 19.

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ORS.

*Annual
Biography
and Obituary*,
vol. iii, p. 225.

THE APPLI-
CATION OF
THE TRUS-
TEES OF THE
BRITISH
MUSEUM TO
PARLIAMENT
FOR THE
PURCHASE
OF BURNLEY'S
LIBRARY.

ACQUISITION
OF THE
BURNLEY
LIBRARY BY
THE NATION.

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TORS.

*Report of
Select Com-
mittee, 1818;
passim.*

bited, at one view, all the diversities of text, recension, and commentary. His Greek grammarians were arrayed in like manner. And his collection of lexicographers generally, and of philologists, was both large and well selected.

The total number of printed books was nearly thirteen thousand five hundred volumes, that of manuscripts was five hundred and twenty; and the total sum given for the whole was thirteen thousand five hundred pounds.

It was estimated that the Collection had cost Dr. BURNET a much larger sum, and that, possibly, if sold by public auction, it might have produced to his representatives more than twenty thousand pounds.

COLLECTION
OF P. L.
GINGUENÉ.
(Died 11 Nov.,
1816.)

In the same year with the acquisition of the Burney Library, the national Collections were augmented by the purchase of the printed books of a distinguished Italian scholar long resident in France, and eminent for his contributions to French literature. Pier Luigi GINGUENÉ—author of the *Histoire Littéraire d'Italie* and a conspicuous contributor to the early volumes of the *Biographie Universelle*—had brought together a good Collection of Italian, French, and Classical literature. It comprised, amongst the rest, the materials which had been gathered for the book by which the Collector is now chiefly remembered, and extended, in the whole, to more than four thousand three hundred separate works, of which number nearly one thousand seven hundred related to Italian literature, or to its history. This valuable Collection was obtained by the Trustees—owing to the then depressed state of the Continental book-market—for one thousand pounds. And, in point of literary value, it may be described as the first—in point of price, as the cheapest—of a series of purchases which now began to be made on the Continent.

more numerous printed Library had been purchased therewith a cabinet of coins and a valuable herbarium, Munich, three years earlier, at the sale of the Collections Baron VON MOLL. His Library exceeded fourteen thousand volumes, nearly eight thousand of which related to the physical sciences and to cognate subjects. The cost of purchase, with the attendant expenses, was four thousand seven hundred and seventy pounds. The whole was defrayed out of the fund bequeathed by Major Sir EDWARDS.*

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COLLECTION
OF BARON
VON MOLL.
(1815.)

These successive purchases, together with the Hargrave Collection—acquired in 1813—increased the theretofore neglected Library by an aggregate addition of nearly five thousand volumes. And for four successive years (1812-15) Parliament made a special annual grant of three thousand pounds† for the purchase of printed books relating to British History.

The peculiar importance of the Hargrave Collection lies in its manuscripts and its annotated printed

FRANCIS
HARGRAVE
AND HIS
COLLEC-
TIONS IN
LAW LITERA-
TURE.

The former were about five hundred in number, and were works of great juridical weight and authority, especially the curiosities of black-letter law. Their Collector was the most eminent parliamentary lawyer of his age, and his devotion to the science of law had, to some extent, impeded his enjoyment of its sweets. During the best years of his life he had been more intent on increasing his legal lore than on swelling his legal

Library was also from the Edwards fund that the whole costs of the MSS. of Haller, and of the Minerals of Hatchett, together with those of several other early and important acquisitions, were defrayed. That fund, in truth, was the mainstay of the Museum during the reign of parliamentary parsimony.

Of these four thousand pounds, two thousand three hundred and thirty pounds seem to have been expended in Printed Books; the remainder, probably, in Manuscripts.

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profits. And thus the same legislative act which enriched the Museum Library, in both of its departments, helped to smooth the declining years of a man who had won an uncommon distinction in his special pursuit. Francis HARGRAVE died on the sixteenth of August, 1821, at the age of eighty.

THE
EGERTON
BEQUEST.

Leaving now this not very long list of acquisitions made by the National Library, in the way of purchase, either at the public cost or from endowments, we have again to turn to a new and conspicuous instance of private liberality. Like CRACHERODE, and like BURNEY, Francis Henry EGERTON belonged to a profession which at nearly all periods of our history—though in a very different degree in different ages—has done eminent honour and rendered large services to the nation, and that in an unusual variety of paths.

Each of these three clergymen is now chiefly remembered as a 'Collector.' Each of them would seem to have been placed quite out of his true element and sphere of labour, when assuming the responsibilities of a priest in the Church of England. CRACHERODE was scarcely more fitted for the work, at all events, of a preacher—save by the tacit lessons of a most meek and charitable life—than he was fitted to head a cavalry charge on the field of battle. BURNEY was manifestly cut out by nature for the work of a schoolmaster; although, as we have seen, he was able—late, comparatively, in life—so to discharge (for a very few years) the duties of a parish priest as to win the love of his flock. EGERTON was unsuited to clerical work of almost any and every kind. Yet he, too, with all his eccentricities and his indefensible absenteeism, became a public benefactor. The last act of his life was to make a provision which has been fruitful in good, having a bearing—very

though indirect—upon the special duties of the priestly
 ion, for which he was himself so little adapted. The
 ests of Francis EGERTON had, among their many
 l results, the enabling of Thomas CHALMERS to add
 ore to his fruitful labours for the Christian Church
 or the world.

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 ORS.

may not, I trust, be out of place to notice in this
 action, and as one among innumerable debts which
 country owes specifically to its Church Establishment,
 npressive and varied way in which the English Church
 t every period, inculcated the lesson (by no means, now-
 , a favourite lesson of 'the age') that men owe duties
 sterity, as well as duties to their contemporaries.
 act bears directly on the subject of this book. Into
 path of life many men must needs enter, from time
 ie, without possessing any peculiar and real fitness
 . In a path which (in the course of successive ages)
 en trodden by some millions of men, there must
 have been a crowd of incomers who had been better
 e outside. They were like the square men who get
 thrust violently into round holes. But, even of these
 ced men, not a few have learnt, under the teaching
 Church, that if they could not with efficiency do
 work or parish work, there was other work which
 ould do, and do perpetually. Men, for example, who
 iterature could, for all time to come, secure for the
 t student ample access to the best books, and to the
 ustible treasures they contain. CRACHERODE did
 BURNES helped to do it. EGERTON not only did the
 his degree, in several parts of England, but he en-
 other and abler men to write new books of a sort
 are conspicuously adapted to add to the equipment
 nes for their special duty and work in the world.

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Neglecting to learn many lessons which the Church teaches, to her clergy as well as to laymen, he had at least learnt one lesson of practical and permanent value.

Hence it is that, in addition to the matchless roll of English worthies which, in her best days, the Church has furnished—in that long line of men, from her ranks, who have done honour to her, and to England, under *every* point of view—she can show a subsidiary list, comprising men whose benefactions are more influential than were, or could have been, the labours of their lives; men of the sort who, being dead, can yet speak, and to much better purpose than ever they could speak when alive. Among such is the Churchman whose testamentary gifts have now very briefly to be mentioned.

LIFE OF
FRANCIS
HENRY
EGERTON,
EARL OF
BRIDGE-
WATER, AND
FOUNDER
OF THE
'BRIDGE-
WATER TREAS-
TISES.'

Francis Henry EGERTON was a younger son of John EGERTON, Bishop of Durham, by the Lady Anna Sophia GREY, daughter and coheir of Henry GREY, Duke of Kent. He was born on the eleventh of November, 1756. The Bishop of Durham was fifth in descent from the famous Chancellor of England, Thomas EGERTON, Viscount Brachley, to whom, as he lay upon his death-bed, BACON came with the news of King JAMES's promise to make him an Earl. Before the patent could be sealed, the ex-chancellor, it will be remembered, was dead, and JAMES, to show his gratitude to the departed statesman, sold for a large sum the Earldom of Bridgewater to the Chancellor's son. Eventually, of that earldom Francis Henry EGERTON was, in his old age, the eighth and last inheritor.

Mr. EGERTON was educated at Eton and at All Souls. He took his M.A. in 1780, and in the following year was presented, by his relative, Francis, Duke of BRIDGEWATER—the father of inland navigation in Britain—to the Rec-

of Middle, in Shropshire, a living which he held for
; and forty years.

e was a toward and good scholar. From his youth
as a great reader and a lover of antiquities, as well as
pectable philologist. His foible was an overweening
ugh a pardonable pride in his ancestry. That ancestry
raced what was noblest in the merely antiquarian point
ew, along with the grand historical distinctions of state
ce rendered to Queen ELIZABETH, and of a new ele-
introduced into the mercantile greatness of England
r GEORGE THE THIRD. A man may be forgiven for
; proud of a family which included the servant of
ABETH and friend of BACON, as well as the friend of
DLEY. But the pride, as years increased, became
what wearisome to acquaintances; though it proved to
source of no small profit to printers and engravers,
at home and abroad. Mr. EGERTON's writings in
phy and genealogy are very numerous. They date
1793 to 1826. Some of them are in French. All of
relate, more or less directly, to the family of EGERTON.

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the year 1796, he appeared as an author in another
ment, and with much credit. His edition of the
lytus of EURIPIDES is also noticeable for its modest
andid acknowledgment of the assistance he had
l from other scholars. He afterwards collected and
some fragments of the odes of SAPPHO. The later
of his life were chiefly passed in Paris. His mind
een soured by some unhappy family troubles and
s, and as years increased a lamentable spirit of
icity increased with them. It had grown with his
, but did not weaken with his loss of bodily and
vigour.

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One of the most noted manifestations of this eccentricity was but the distortion of a good quality. He had a fondness for dumb animals. He could not bear to see them suffer by any infliction,—other than that necessitated by a love of field sports, which, to an Englishman, is as natural and as necessary as mother's milk. At length, the Parisians were scandalised by the frequent sight of a carriage, full of dogs, attended with as much state and solemnity as if it contained 'milord' in person. To his servants he was a most liberal master. He provided largely for the parochial service and parochial charities of his two parishes of Middle and Whitchurch (both in Shropshire). He was, occasionally, a liberal benefactor to men of recondite learning, such as meet commonly with small reward in this world.* But much of his life was stamped with the ineffaceable discredit of sacred functions voluntarily assumed, yet habitually discharged by proxy.

On the death, in 1823, of his elder brother—who had become seventh Earl of BRIDGEWATER, under the creation of 1617, on the decease of Francis third Duke and sixth (Egerton) Earl—Francis Henry EGERTON became eighth Earl of BRIDGEWATER. But he continued to live chiefly in Paris, where he died, in April, 1829, at the age of seventy-two years. With the peerage he had inherited a

* To give but one example: Samuel Burder—the author of the excellent work, so illustrative of Biblical literature, entitled *Oriental Customs*—states, in his MS. correspondence now before me, that the *only* effective reward given to him, in the course of his long labours, was given by Lord Bridgewater. The book above mentioned was 'successful;' 'but,' he says, 'the booksellers, as usual, reaped the harvest,' not the author. It is—shall I say?—an amusing comment on this latter clause, to find that in one of his letters to Lord Bridgewater, Burder states that the person who took the most kindly notice of his literary labours, next after Lord Bridgewater himself, was—the Emperor of Russia (Alexander I).

large estate, although the vast ducal property in canals passed, as is well known, in 1803, to the LEVESON-ERS.

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part of Lord BRIDGEWATER's leisure at Paris was given to the composition of a largely-planned treatise on Natural History. But the task was far above the powers of the undertaker. He had made considerable progress, after his return, and part of what he had written was put superbly in type, from the press of DIDOT. Very wisely, he managed to enable abler men to do the work more efficiently. And this was a main object of his remarkable

that portion of the document which eventually gave to the world the well-known 'Bridgewater Treatises' of CHALMERS, BUCKLAND, WHEWELL, PROUT, ROGET, and their co-workers in the task, reads thus:—

do hereby give and bequeath to the President of the Royal Society the sum of eight thousand pounds, to be applied according to the order and direction of the said President to the Royal Society, in full and without any diminution of statement whatsoever, in such proportions and at such times according to his discretion and judgment, and without being subject to any control or responsibility whatsoever, to any person or persons as the said President for the time being of the aforesaid Royal Society shall or may nominate or appoint and employ. And it is my will and particular request that some person or persons be nominated and appointed by him to write, print, publish, and expose to public sale, one thousand copies of a work "*On the Wisdom, and Goodness of God, as manifested in Creation*," illustrating such work by all reasonable arguments; as, for instance, the variety and formation of God's creatures, in the animal, vegetable, and mineral kingdoms;

LORD
BRIDGE-
WATER'S
REQUESTS
FOR THE
PREPARA-
TION OF
TREATISES
ON NATURAL
THEOLOGY.

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 IS.

the effect of digestion, and thereby of conversion ; the construction of the hand of man, and an infinite variety of arrangements ; as also by discoveries, ancient and modern, in arts, sciences, and in the whole extent of literature. And I desire that the profits arising from and out of the circulation and sale of the aforesaid work shall be paid by the said President of the said Royal Society, as of right, as a further remuneration and reward to such persons as the said President shall or may so nominate, appoint, and employ as aforesaid. And I hereby fully authorise and empower the said President, in his own discretion, to direct and cause to be paid and advanced to such person or persons during the printing and preparing of the said work the sum of three hundred pounds, and also the sum of five hundred pounds sterling to the same person or persons during the printing and preparing of the said work for the press, out of, and in part of, the same eight thousand pounds sterling. And I will and direct that the remainder of the said sum of eight thousand pounds sterling, or of the stocks or funds wherein the same shall have been invested, together with all interest, dividend, or dividends accrued thereon, be transferred, assigned, and paid over to such person or persons, their or his executors, administrators, or assigns, as shall have been so nominated, appointed, and employed by the said President of the said Royal Society, at the instance and request of the same President, as and when he shall deem the object of this bequest to have been fully complied with by such person or persons so nominated, appointed, and employed by him as aforesaid.'

REQUESTS
 ' LORD
 RIDGE-
 ATER TO
 IE BRITISH
 USEUM.

What was done by the Trustees under this part of Lord BRIDGEWATER's Will, and with what result, is known to all readers. That other portion of the Will which relates to his bequest to the British Museum reads thus :—' I give

bequeath to the Trustees for the time being of the *British Museum* at Montagu House, in London, to be there deposited . . . for the use of the said Museum, in conformity with the rules, orders, and regulations of the said establishment, absolutely and for ever, all and every my collection of Manuscripts as hereinafter particularly detailed. That is to say, the several volumes of Manuscripts, and all papers, parchments (written or printed), and letters, despatches, registers, rolls, documents, evidences, authorities and signatures, and all impressions of seals and marks, of every description and sort, and of what nature kind, severally and generally belonging to my Collection of Manuscripts, or in my possession, stamped with my arms otherwise (except such letters, notes, papers, &c., as are hereinafter directed to be burned and destroyed [*two words added, BRIDGEWATER*']), in the discretion of my Trustees and Executors hereinafter appointed; and also save and except all such letters, papers, and writings as are attached and accompanying the printed books specifically bequeathed by me to the Library at *Ashridge*, and which said mentioned letters, papers, and writings are also, if I take not, stamped with my arms. And I also will and desire that all and every the aforesaid manuscripts, papers, parchments (written or printed), letters, despatches, registers, rolls, documents, evidences, authorities, signatures, impressions of seals and marks of every description and sort, every other Manuscript or Manuscripts appertaining to said Collection whatsoever and wheresoever, or which may hereafter, during my life, be added thereto (but private letters, notes, or memorandums of any sort or which I direct to be burned or destroyed), shall, within the space of two years from the day of my decease, be collected and removed to the *British Museum* as aforesaid,

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under the particular care, superintendence, and direction of Eugene Auguste BARBIER, one of my Trustees and Executors hereinafter appointed ; for which particular service I give and bequeath to him, the said Eugene Auguste BARBIER, the sum of two thousand pounds sterling. I also give, bequeath, and demise unto the said Trustees of the *British Museum* all my estate, lands, parcels of land, ground, hereditaments and appurtenances, situate in the parish of *Whitchurch-cum-Marbury*, or in any other parish or place in the Counties of Salop or Chester, or in either or both of the said Counties, and also all the trees growing thereon, and all seats, sittings, and pews in the Parish Church of *Whitchurch-cum-Marbury* aforesaid, all or any of which I shall or may have bought or purchased, and which now belong to me by right of purchase, descent, or otherwise, to have and to hold the same estate, lands, parcels of land, ground, hereditaments and appurtenances, to them the said Trustees of the said *British Museum* for the time being for ever, upon the trusts nevertheless, and to and for the ends, intents, and purposes hereinafter particularly mentioned, expressed, and declared ; that is to say, that the trees growing on the aforesaid estate, lands, parcels of lands, ground, hereditaments, and appurtenances, shall not be cut or brought down or destroyed, but shall and may be suffered to grow during their natural life, and that the smaller trees only may be thinned here and there, with care and judgment, so as to promote the growth of the larger trees ; and that the same estate, lands, parcels of land, ground, hereditaments and appurtenances, seats, sittings or pews, or any part thereof, shall not be susceptible of being let, underlet or rented, by or to any person or persons who shall hold, have, take, or rent any estate, farm, lands, or property of or from the family of EGERTON, or of or from any person or

persons having that name, or of or from the Rector of *Kitchurch-cum-Marbury* aforesaid for the time being; and on further trust that they the said Trustees of the British Museum for the time being do and shall lay out and apply the rents, issues, and profits which shall from time to time come from and out of the said estate, lands, parcels of land, pound, hereditaments and appurtenances, in the purchase of manuscripts for the continual augmentation of the aforesaid Collection of Manuscripts. I further will and direct that my said Trustees hereinafter appointed, within the space of eighteen calendar months after my decease, do lay out and invest in the Three per cent. Consolidated stocks or funds of England, in the names of the Trustees of the *British Museum* for the time being, or in such names and in such account as the said Trustees shall direct, the sum of ten thousand pounds sterling, the interest and dividends thereof, as the same shall from time to time become due and payable, I desire and direct shall and may be paid over by the said Trustees to such person or persons as shall from time to time be charged with the care and superintendence of the said Collection of Manuscripts. I also give, grant, bequeath, and devise unto my Trustees hereinafter appointed and singular my house, land, tenements, hereditaments, and appurtenances at or near *Little Gaddesden*, in the county of Herts, upon trust that they my said Trustees do and shall, during their joint lives and the life of the survivor of them, let and demise the same for such term or for such years as they shall think fit, for the best rent that can be had and gotten for the same; but the same premises, under circumstances, to be let, underlet, or rented by or to any one or persons who shall have, hold, take, or rent any house, farm, or property of or from the family of EGERTON, or any person or persons bearing that name, and do and

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RES.

shall pay over the rents, issues, and profits thereof, as and when received, to the Trustees for the time being of the *British Museum* aforesaid, to be laid out and applied by such last-mentioned Trustees in the service and for the continued augmentation of the said Collection of Manuscripts ; and from and after the decease of the survivor of them my said Trustees hereinafter appointed, I give and devise the said house, land, tenements, hereditaments and appurtenances, unto and for the use of the proprietor or proprietors of the Manor and Estate of *Ashridge*, his heirs and assigns for ever. And as to all the rest, residue and remainder of my real and personal estate and effects, of every nature and kind soever and wheresoever situate, not hereinbefore disposed of, or availably so, for the purposes intended, I give, devise, and bequeath the same to my said Trustees, upon trust that they my said Trustees do pay over and transfer the same to the said Trustees of the *British Museum*, and do otherwise render the same available for the service of and towards maintaining, preserving, keeping up, improving, augmenting, and extending, as opportunities may offer, my said Collection of Manuscripts so deposited in the *British Museum* as aforesaid, in the most advantageous manner, according to their judgment and discretion.'

'Will of
Francis
Henry, Earl
' Bridge-
water.
) Official
(py.)

The eccentricity of which I have spoken showed itself in the successive changes of detail and other modifications which these bequests underwent before the testator's death. What with the Will and its many codicils, the documents, collectively, came to be of a kind which might task the acumen of a FEARNE or a St. LEONARDS. But the drift of the Will was undisturbed. The restrictions as to the under-letting of the Whitechurch estate, and the like, were now limited by codicils to a prescribed term of years after

At the testator's death ; power was given to the Museum Trustees to sell, also after a certain interval, the landed estate bequeathed for the purchase of manuscripts, should it be deemed conducive to the interest of the Library so to do ; and an additional sum of five thousand pounds was given to the Trustees for the further increase of the Collection of Manuscripts, and for the reward of its keeper, in lieu of a residuary interest in the testator's personal estate.

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On the 10th of March, 1832, the Trustees resolved that the yearly proceeds of the last-named bequest should be paid to the Librarians in charge of the MSS., but that their ordinary salaries, on the establishment, should be diminished by a like amount.

*Minutes of
Trustees ;
(printed in
Parliamentary
Paper of
1835-6).*

The Manuscripts bequeathed by Lord BRIDGEWATER comprise a considerable collection of the original letters of Kings, Queens, Statesmen, Marshals, and Diplomats, of France ; another valuable series of original letters and papers of the authors and scientific men of France and of Italy ; many papers of Italian Statesmen ; and a portion of the donor's own private correspondence. The latter series of papers includes, amongst others, letters by D'Ansse de Villosin, the Prince of Arenberg, Auger, the Duke of Blacas, Bodoni, Boissonade, Bonpland, Cuvier, Ginguené, Humboldt, Valckenaer, and Monti. Some of these are merely letters of compliment and thanks—and, in an especial degree, those of D'Ansse de Villosin, of Boissonade, of Ginguené, of Humboldt, and of Monti—contain much interesting matter on questions of zoology, art, and history.

CHARACTER
OF THE
EGERTON
MSS. ;

The earliest additions to the Egerton Collection were made by the Trustees in May, 1832. In the selection of books for purchase the Trustees, with great propriety, have shown a preference—on the whole ; not exclusively—to that

AND OF THE
ADDITIONS
MADE TO IT
FROM 1832
TO 1870.

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TORS.

THE HARDI-
MAN MSS.
ON IRISH
ARCHÆO-
LOGY AND
ENGLISH
HISTORY.

class of documents of which the donor's own Collection was mainly composed—the materials, namely, of Continental history. Amongst the earliest purchases of 1832 was a curious Venetian *Portolano* of the fifteenth century. In the same year a large series of Irish Manuscripts, collected by the late John HARDIMAN, was acquired. This extends from the Egerton number '74' to '214'; and from the same Collector was obtained the valuable *Minutes of Debates in the House of Commons*, taken by Colonel CAVENDISH, between the years—so memorable in our history—from 1768 to 1774.* In the year 1835, a large collection of manuscripts illustrative of Spanish history was purchased from Mr. RICH, a literary agent in London, and another large series of miscellaneous manuscripts—historical, political, and literary—from the late bookseller, Thomas RODD. From the same source another like collection was obtained in 1840. An extensive series of French State Papers was acquired (by the agency of Messrs. BARTHES and LOWELL) in 1843; and also, in that year, a collection of Persian MSS. In the following year a curious series of drawings, illustrating the antiquities, manners, and customs of China, was obtained; and, in 1845, another valuable series of French historical manuscripts.

AUGMENTA-
TION OF
LORD
BRIDGE-
WATER'S
GIFT BY
THAT OF
LORD FARN-
BOROUGH,
1838.

Meanwhile, the example set by Lord BRIDGEWATER had incited one of those many liberal-minded Trustees of the British Museum who have become its benefactors by augmentation, as well as by faithful guardianship, to follow it in exactly the same track. Charles LONG, Lord Farnborough, bequeathed (in 1838) the sum of two thousand eight hundred and seventy-two pounds in Three per cent. Consols, specifically as an augmentation of the Bridgewater

* These form the Egerton MSS. 215 to 262 inclusive.

1. Lord FARNBOROUGH'S bequest now produces eighty-pounds a year; Lord BRIDGEWATER'S, about four hundred and ninety pounds a year. Together, therefore, yield five hundred and seventy pounds, annually, for improvement of the National Collection of Manuscripts.

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In 1850 and 1852, an extensive series of German *Albums* many of them belonging to celebrated scholars—was acquired. These are now 'Egerton MSS. 1179' to '1499,' '1500' to '1539,' and '1540' to '1607.' A curious collection of MSS. relating to the Spanish Inquisition was also obtained in 1850. In 1857, the important historical collection, known as 'the Bentinck Papers,' was purchased from Tycho Brahe, of Oldenburgh. In the following year, another series of Spanish State Papers, and also the Irish Manuscripts of Henry MONCK MASON;—in 1860, a further series of 'Bentinck Papers;'—and in 1861, an extensive collection of the Correspondence of POPE and of Bishop BURTON, were successively acquired.

Egerton MSS.
1704-1756.
Ib. 1758-
1773.

These large accumulations of the materials of history added, in the succeeding years, other important collections of English correspondence, and of autograph MSS. of famous authors; and also a choice collection of Spanish and Portuguese Manuscripts brought together by Count D'ARTE, and abounding with historical information. To this in addition was made last year (1869) of other like MSS., amongst which are notable some Venetian *Relazioni*; MSS. of Cardinals Carlo CARAFFA and Flavio ORSINI; and letters of Antonio PEREZ. In 1869, there was also added, by means of the conjoined Egerton and Farnborough funds, a curious parcel of papers relating to the affairs of the Corporation and trade of Dover, from the year 1387 to 1678; together with some other papers illustrative of the cradle-years of our Indian empire.

Egerton MSS.
2. 147-2064.

Ib. 2077-
2084.

Ib. 2087-
2099.

Ib. 2086;
2100.

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THE 'BYRON
MSS.' IN THE
EGERTON
COLLECTION
(1867).

Amongst the latest accessions obtained from the Bridgewater fund are some MSS. from the hand of a famous English poet of the last generation. These have now an additional, and special, interest in English eyes, from a recent lamentable occurrence. The pen of a slanderer has aimed at gaining a sort of celebrity, more enduring than anything of its own proper production could hope to secure, by attempting to affix on BYRON and on Augusta LEIGH—after both the great poet and the affectionate sister have lain many years in their several graves, and can no longer rebut the slander—the stain of an enormous guilt. Some, however, are yet alive, by whom the calumny *can*, and *will*, be conclusively exposed. Meanwhile, the slanderer's poor aim will, probably, have been reached—but in an unexpected and unenviable way.

'The link

*Thou formest in his fortunes, bids us think
Of thy poor malice, naming thee with scorn.'*

Very happily, the calumniating pen was not held in any English hand.

Much more might, and not unfitly, be said in illustration of the historical and literary value of those manuscript accessions to the National Library which, in these later years, have accrued out of the proceeds of Lord BRIDGEWATER's gift. Enough, however, has been stated, to serve by way of sample.

OTHER BENEFAC-
TIONS OF
LORD
BRIDGE-
WATER.

Nor were these the only literary bequests and foundations of the last Earl of BRIDGEWATER. He bequeathed, as heirlooms, two considerable Libraries, rich both in theology and in history—to the respective rectors, for ever, of the parishes of Middle and of Whitchurch. These, I learn—from MS. correspondence now before me—are of great

, and are gladly made available, by their owners for time being, to the use of persons able and willing to t by them. He also founded a Library, likewise by of heirloom, at Ashridge.

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TORS.

hilst the National Library was thus being gradually im-
d, both by increased liberality on the part of Parlia-
and, far more largely, by the munificent gifts of
iduals, other departments of the Museum had not been
cted.

arles GREVILLE, the nephew of Sir William HAMILTON, collected, in his residence at Paddington Green, a cabinet of minerals. It was the finest assemblage of nd which had yet been seen in England. For the ase of this Collection Parliament made a grant, in the 810, of thirteen thousand seven hundred and twenty- pounds.

THE ACQUI-
SITION OF
THE
GREVILLE
MINERALS ;

1816, a valuable accession came to the zoological ment, by the purchase, for the sum of eleven hundred s, of a Collection of British Zoology, which had been l at Knowle, in Devonshire, by Colonel George agu. The Montagu Collection was especially rich in

OF THE MON-
TAGU MU-
SEUM ;
[See, here-
after, Book
III, c. I.]

e years later, the Library was further benefited, in the f gift, by a choice Italian Collection, gathered and by Sir Richard Colt HOARE, of Stourhead ; and, in y of Parliamentary grant, by the acquisition of the on of manuscripts, coins, and other antiquities, which en made in the East, during his years of Consulship idad, by Claudius James RICH.

AND OF THE
COLLEC-
TIONS OF SIR
R. C. HOARE

Richard HOARE was not less distinguished for the nd judgment with which he had collected the his- literature of Italy, than for the zeal and ability with

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TORS.

which he cultivated, both as author and as patron, the—in Britain—too much neglected department of provincial topography. He had spent nearly five years in Italy—partly during the reign of NAPOLEON—and amassed a very fine collection of books illustrative of all departments of Italian history. In 1825, Sir Richard presented this Collection to the Trustees of the British Museum in these words:—‘Anxious to follow the liberal example of our gracious monarch GEORGE THE FOURTH, of Sir George BEAUMONT, and of Richard Payne KNIGHT (though in a very humble degree), I do give unto the British Museum my Collection of Topography, made during a residence of five years abroad; and hoping that the more modern publications may be added to it hereafter.’ The Library so given included about seventeen hundred and thirty separate works. Sir Richard did something, himself, to secure the fulfilment of the annexed wish, by adding to his first gift, made in 1825, in subsequent years.

COLLEC-
TIONS OF
CLAUDIUS
RICH. [See,
hereafter,
Book III, c.
3.]

The researches of Claudius RICH merit some special notice. He may be regarded as the first explorer of Assyria. Had it not been for his early death, it is very probable that he might have anticipated some of the brilliant discoveries of Mr. LAYARD. But his quickly intercepted researches will be best described, in connection with the later explorations in the same field. Here it may suffice to say that from Mr. RICH’s representatives a Collection of Manuscripts, extending to eight hundred and two volumes—Syriac, Arabic, Persian, and Turkish—was obtained, by purchase, in 1825, together with a small Collection of Coins and miscellaneous antiquities.

HULL’S ORI-
ENTAL MSS.

To the Oriental Manuscripts of RICH, an important addition was made in the course of the same year by the bequest of Mr. John Fowler HULL—another distinguished

talist who passed from amongst us at an early age— also bequeathed a Collection of Oriental and Chinese ed books. Mr. HULL's legacy was the small be- ng of that Chinese Library which has now become so

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was also in the year 1825 that Sir Gore OUSELEY nted a Collection of Marbles obtained from Persepolis. e will be mentioned hereafter in connection with the uarian explorations of Claudius RICH and his suc- rs. The donor of the Persepolitan Marbles died on ighteenth of November, 1844.

THE PERSE-
POLITAN
MARBLES.

addition to these many liberal benefactions made g the earlier years of the present century, a smaller virtually a gift, though in name a 'deposit') of the period claims brief notice, on account both of its c value and of its curious history. I refer to that site monument of ancient art known, for many years, 'Barberini Vase,' but now more commonly as the and Vase,' from the name of its last individual sor.

HISTORY
OF 'THE
PORTLAND
VASE.'

s vase is one of the innumerable acquisitions which untry owes to the intelligent research and cultivated of Sir William HAMILTON. It had been found more century before his time (probably in the year 1640), h the Monte del Grano, about three miles from on the road to Tusculum. The place of the dis- was a sepulchral chamber, within which was found a hagus containing the vase, and bearing an inscription memory of the Emperor ALEXANDER SEVERUS (*A.D.* 35) and to his mother. About this sarcophagus and rscription there have been dissertations and rejoinders, and commentaries, illustrative and obscurative, in

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sufficient number to immortalise half a dozen Jonathan OLDBUCKS and 'Antigonus' MAC-CRIBBS. And the controversy is still undetermined.

Correspondence of Mrs. Delany, vol. ii (in many places).

H. Walpole to Lady Upper-Ossory, 10 August, 1785. (Cunn. Edit., vol. ix, p. 3.)

After having been long a conspicuous ornament of the Barberini Palace, the 'Barberini Vase' was bought by HAMILTON. When, in December, 1784, he paid one of his visits to England, the vase came with him. Its fame had previously excited the desires of many virtuosi. By the Duchess of PORTLAND it was so strongly coveted, that she employed a niece of Sir William to conduct a negotiation with much more solemnity and mystery than the ambassador would have thought needful in conducting a critical Treaty of Peace. The Duchess's precautions foiled the curiosity of not a few of her fellow-collectors in virtù. 'I have heard,' wrote Horace WALPOLE, 'that Sir W. HAMILTON's renowned vase, which had disappeared with so much mystery, is again recovered; not in the tomb, but the treasury, of the Duchess of PORTLAND, in which, I fancy, it had made ample room for itself. Sir William told me it would never go out of England. I do not see how he could warrant *that*. The Duchess and Lord Edward have both shown how little stability there is in the riches of that family.' As yet, the reader will remember, that 'Portland Estate,' which was so profitably to turn farms into streets, was but in expectancy.

And then WALPOLE adds: '*My* family has felt how insecure is the permanency of heir-looms,'—the thought of that grand 'Houghton Gallery,' and its transportation to Russia, coming across his memory, whilst telling Lady UPPER-OSSORY the story of the coveted vase, just imported from the Barberini Palace at Rome.

The Duchess of PORTLAND enjoyed the sight of her beautiful purchase only during a few weeks. It was bought

y the family (at the nominal price of £1029*) at the of her famous museum of curiosities—a sale extending more than four thousand lots—and twenty-four years afterwards, it was lent, for exhibition (1810), by the third Duke of PORTLAND, to the Trustees of the British Museum, where it has since remained.

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Then WEDGWOOD set about imitating the Portland in his manufactory at Etruria—for which purpose the Duke liberally lent it to him—he discovered that the had been broken and skilfully put together again. As it had been publicly exhibited during almost thirty-years in London, the frenzy of a maniac led—as it ended at the moment—to its utter destruction. But, solely by the singular skill and patience of the late John BLEDDAY (a craftsman attached to the Department of Sculptures for many years), it was soon restored to its pristine beauty. That one act of violence in 1845 is the only instance of very serious injury arising from open exhibition comes which the annals of the Museum record.

Horace Walpole, at this sale, purchased the fine MS., with drawings of Clovio, which was long an ornament of the villa at Strawberry Hill and also a choice cameo of Jupiter Serapis, for which he gave a hundred and seventy-three pounds. He preferred, he said, either of them to the vase. So, at least, he fancied when he found it unattainable. 'I was glad,' he wrote to Conway (18 June, 1786), 'that Sir Joshua saw more excellence in the *Jupiter* than in the Clovio, or the Duke, I think, would have purchased it as he did the Vase—for £1000. I told William and the late Duchess—when I never thought that it would be—that I would rather have the head than the vase.'

CHAPTER IV.

THE KING'S OR 'GEORGIAN' LIBRARY;— ITS COLLECTOR, AND ITS DONOR.

'A crown,
Golden in show, is but a wreath of thorns;
Brings dangers, troubles, cares, and sleepless nights,
To him who wears the regal diadem.'

'O polish'd perturbation! golden care!
That keep'st the ports of slumber open wide
To many a watchful night!'—

Henry IV, Part 2, iv, 4.

*Notices of the Literary Tastes and Acquirements of K
GEORGE THE THIRD.—His Conversations with M
of Letters.—History of his Library and of its Trans
to the British Nation by GEORGE THE FOURTH.*

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THE CON-
TRACTS BE-
TWEEN
GEORGE III
AND GEORGE
IV.

THE strong antagonisms in mind, in disposition, and tastes, which existed between GEORGE THE THIRD and GEORGE THE FOURTH, may be seen in the small and incidental acts of their respective lives, almost as distinctly, as as sharply defined, as they are seen in their private lives, in their characteristic modes of transacting the public business. GEORGE THE THIRD regretted the giving away of the old 'Royal Library' of the Kings his ancestors, not because he grudged a liberal use of royal books by private scholars, but because he thought a fine Library was the necessary appendage of a palace. He occasionally stinted himself of some of his personal enjoyments in life, in order

have the more means to amass books. He formed, during his own lifetime, a Library which is probably both larger and finer than any like Collection ever made by any man, even under the advantageous conditions of royalty. When he had collected his books, he made them generally accessible. To himself, as we all know, Nature had given any very conspicuous faculty for turning either books or men to good account; nor had education done much to improve the parts he possessed.

GEORGE THE FOURTH, as it seems, regretted the formation of the new Royal Library by the King his father, and, when he inherited it, he found that its decent maintenance and upkeeping would demand every year a great sum of money which he could spend in ways far more to his advantage. He had been far better educated than his father had been. And to him Nature had given good abilities; but study was about the last and least likely use to which, at any time, he was inclined to apply them. If he saw any advantage at all in having, on his accession, the ownership of a Library, it lay, not in the power it afforded him of circulating literature, and the labourers in literature, but in the possibility he saw that so fine a collection of books might be made to produce a round sum of money. One of his first thoughts about the matter was, that it would be a good thing to offer his father's beloved Library for sale—to the Emperor of Russia. By what influences that shrewd policy of turning a penny was diverted will be seen in the sequel.

GEORGE THE THIRD was, in respect to his parts, only naturally endowed, he had in another respect large gifts. His industry and his power of sustained application were uncommon. And his conscientious sense of responsibility

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bility for the use of such abilities as he had was no less remarkable. Whatever may have been his mistakes in government, no man ever sat on the British throne who was more thoroughly honest in his intentions, or more deeply anxious to show, in the discharge of his duties, his consciousness of being

‘Ever in his great taskmaster’s eye.’

That his public acts did not more adequately correspond with his good desires was due, in large measure, to an infelicitous parentage and a narrow education.

THE EDUCA-
TION OF
GEORGE III,
AFTER THE
DEATH OF
FREDERICK,
PRINCE OF
WALES.

As the father of lies sometimes speaks truth, so a mere party manifesto may sometimes give sound advice, though clothed in a discreditable garb. When public attention came first to be attracted to the character of the peculiar influences which began to mould the training of the young Prince of WALES soon after his father’s death, a Court Chamberlain received, one morning, by the post, an unsigned document, which he thought it his duty to place in the hands of the Prime Minister, and he, when he had read it, thought the paper important enough to be laid before the King. This anonymous memorial denounced, as early as in the winter of 1752 (when the Prince was but fourteen years old), the sort of education which GEORGE THE THIRD was receiving as being likely to initiate an unfortunate reign.

The paper (which I have now before me) is headed : ‘*A Memorial of several Noblemen and Gentlemen of the first rank,*’ and in the course of it there is an assertion—as being already matter of public notoriety—‘that books inculcating the worst maxims of government, and defending the most avowed tyrannies, have been put into the hands of the Prince of Wales,’ and such a fact, it is said, ‘cannot but affect the memorialists with the most melancholy apprehensions when

y find that the men who had the honesty and resolution to complain of such astonishing methods of instruction are driven away from Court, and the men who have dared to teach such doctrines are continued in trust and favour.*

Making all allowance for partisan feeling and for that rage of Whig oligarchism which peeps out, as well in the very title, as in the contents of this 'Memorial,' there was a serious truth in the denunciation, and a modicum of true prophecy in the inference. But such a remonstrance had but a little effect, in the way of checking undue influences, and had of wisdom in the form given to it, or in the mode of presentation at Court.

The Prince's education was not merely imbued with maxims and maxims little likely to conduce towards a prosperous reign. It was intellectually narrow and mean. He grew up, for example, in utter ignorance of many of the lights of English literature. In respect to all books, one (that, happily, the greatest of all), he became one of those who, through life, draw from the small cisterns,

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A Memorial,
&c.; MS.
ADDIT. 6271,
fol. 3.

NARROW
RANGE OF
GEORGE THE
THIRD'S
TASTES FOR
BOOKS.

Lord Harcourt resigned his office of Governor to the Prince at the end of December, 1752. Scott, then the Prince's tutor, was succeeded to his office by Bolingbroke. The Bishop of Peterborough's appointment as Preceptor was made in January, 1753. Of the books complained of, the *Histoire de la Grande Bretagne* of Louis de Orléans, and the *Introduction à la vie du Roi Henri IV* of the Jesuit, Father Péréfixe, are said to have been included. Another very famous book, which was much in Prince George's hands in his early years, was also obnoxious to the Whigs—Bolingbroke's *Idea of a King*. But it would scarcely have been prudent in the malcontents to have put a work which (whatever its faults) ranks, to some extent, with our English classics, in the same expurgatory, or prohibitory, list with the books of Orléans and of Péréfixe. If George the Third got the harm out of Lord Bolingbroke's book, he probably obtained much good. Pure Whiggism—pure but not simple—has never been without any discriminating tolerance of spirit. And, in 1752, it was not at all the prospect that the continuance of its long domination was to be ended.

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instead of going to the deep wells. He seems to have been trained to think that the literary glories of his country began with the age of Queen ANNE.

In after years, GEORGE THE THIRD attained to some dim consciousness of his own narrowness of culture. The ply, however, had been too early taken to be got rid of. No training, probably, could have made him a scholar. But his powers of application under wise direction would have opened to him stores of knowledge, from which unwise influences shut him out for life. His faculty of perseverance in study, it must be remembered, was backed by thorough honesty of nature, and by an ability to withstand temptations. When he was entering his nineteenth year, a sub-preceptor, who had watched him sedulously, said of him: 'He is a lad of good principle. He has no heroic strain, and no turn for extravagance. He loves peace, and, as yet, has shown very virtuous principles. He has the greatest temptation to gallant with ladies, who lay themselves out in the most shameless manner to draw him on, but to no purpose.' Certainly this last characteristic was neither an inherited virtue nor an ancestral tradition. And it stands in curious contrast with the tendencies of all his brothers and of almost all his sons.

From youth upwards the Prince read much, though he did not read wisely. No sooner was he King than he began to set about the collection of his noble Library. In the choice of a librarian he was not infelicitous, though the selection was in part dictated by a feeling of brotherly kindness. For he chose a very near relative—Mr. afterwards Sir Frederick Augusta BARNARD. Mr. BARNARD had many qualities which fitted him for his task.

FOUNDATION
 OF THE NEW
 ROYAL Li-
 BRARY.

The foundation of the Library was laid by a very fortunate purchase on the Continent. Its increase was largely

omoted by a political revolution which ensued shortly afterwards; and, in order to turn his large opportunities to best account, the King's Librarian modestly sought and instantly obtained the best advice which that generation could afford him—the advice of Samuel JOHNSON.

In 1762, the fine Library of Joseph SMITH, who had been British Consul at Venice during many years, was bought for the King. It cost about ten thousand pounds. SMITH had ransacked Italy for choice books, much as his contemporary, Sir William HAMILTON, had ransacked that country for choice vases. And he had been not less successful in his quest. In amassing early and choice editions of the classics, and also the curiosities and rarities of eighteenth-century printing, he had been especially lucky. From the same source, but at a later date, GEORGE THE SECOND also obtained a fine gallery of pictures and a collection of coins and gems. For these he gave twenty thousand pounds. For seven or eight years the shops and warehouses of English booksellers were also sedulously mined, and large purchases were made from them. In this labour JOHNSON often assisted, actively, as well as by advice.

When the suppression of the Jesuits in many parts of Europe made the literary treasures which that busy Society collected—often upon a princely scale and with admirable taste, so far as their limitations permitted—both the King and his librarian were struck with the idea that their fine opportunity opened itself for book-buying on the Continent. It was resolved that Mr. BARNARD should be sent for the purpose of profiting by it. Before he set out on his journey, he betook himself to JOHNSON for counsel as to the best way of setting about the task.

JOHNSON'S counsel may be thus abridged: The litera-

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*Dactyliotheca
Smithiana*;
1767; Lady
M. W.
Montagu,
Letters,
vol. iii, p. 89.

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SUBSTANCE
OF
JOHNSON'S
ADVICE ON
THE COLLEC-
TION OF
THE KING'S
LIBRARY.

ture of every country may be best gathered on its native soil. And the studies of the learned are everywhere influenced by peculiarities of government and of religion. In Italy you may, therefore, expect to meet with abundance of the works of the Canonists and the Schoolmen; in Germany with store of writers on the Feudal Laws; in Holland you will find the booksellers' shops swarming with the works of the Civilians. Of Canonists a few of the most eminent will suffice. Of the Schoolmen a liberal supply will be a valuable addition to the King's Library. The departments of Feudal and Civil Law you can hardly render too complete. In the Feudal Constitutions we see the origin of our property laws. Of the Civil Law it is not too much to say that it is a regal study.

In respect to standard books generally, continued JOHNSON, a Royal Library ought to have the earliest or most curious edition, the most sumptuous edition, and also the most useful one, which will commonly be one of the latest impressions of the book. As to the purchase of entire libraries in bulk, the Doctor inclined to think—even a century ago—that the inconvenience would commonly almost overbalance the advantage, on the score of the excessive accumulation of duplicate copies.

And then he added a remark which (long years afterwards) Sir Richard Colt HOARE profited by, and made a source of profit to our National Museum. 'I am told,' said JOHNSON, 'that scarcely a village of Italy wants its historian. And it will be of great use to collect, in every place, maps of the adjacent country, and plans of towns, buildings, and gardens. By this care you will form a more valuable body of geography than could otherwise be had.'

On that point—as, indeed, on all the points about which

gave advice—JOHNSON'S counsel bore excellent fruit. The 'body of geography' contained in the Georgian Library is never, I think, been surpassed in any one Collection made by a single Collector) in the world. It laid, substantially, the foundation of the noble assemblage of charts and maps which now forms a separate Department of the Museum, under the able superintendence of Mr. Richard Henry MAJOR, who has done much for the advancement of geographical knowledge in many paths, but in none more efficiently than in his Museum labours.

Like good counsel was given to BARNARD by the great geographer, in relation to the gathering of illustrated books. He told the King's Librarian that he ought to seek diligently for old books adorned with woodcuts, because the designs were often those of great masters.

When to this remark the Doctor added the words: 'These old prints are such as cannot be made by any artist living,' he asserted what was undoubtedly true, if he meant that high praise to the best class of the works of which he was speaking. But his words carry in them also indirect testimony of honour to GEORGE THE THIRD. If, in the century which has passed since Samuel JOHNSON conversed with Frederick BARNARD the wisest means of forming a Royal Library, a great stride has been made by the arts of design in Britain, a share of the merit belongs to the patriotic old King. He was amongst the earliest in his dominions to encourage British art with an open hand. He was not only the founder of the Royal Academy, but the most liberal patron to artists; and he did not limit his patronage to those men alone who belonged to his own country. If for a series of years the Royal Academy did not flourish for Art, and did its work in a more narrow spirit of policy than it ought to have done, the fault was not in the

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founder. And, of late years, the Academy itself has, in many ways, nobly vindicated its foundation and the aid it has received from the Public. Towards the foundation of the Academy, GEORGE THE THIRD gave, from his privy purse, more than five thousand pounds. To many of its members he was a genial friend, as well as a liberal patron.

Many other institutions of public education shared his liberality. Some generous benefactions which he gave to the British Museum itself, in the earlier years of his reign, have been mentioned already. But there were a crowd of other gifts, both in the earlier and in the later years, of which the limits of this volume at present forbid me to make detailed mention.

The Continental tour of Mr. BARNARD was very successful as to its main object. He obtained such rich accessions for the Library as raised it—especially in the various departments of Continental history and literature—much above all other Libraries in Britain.

*Bibliotheca
Askeviana*
(1775).
*Literary
Anecdotes of
Eighteenth
Century*, vol.
iv, p. 513
(183-).

Within a few years of his return to England the very choice Collection which had been formed by Dr. Anthony ASKEW came into the market. For this Library, in bulk, the King offered ASKEW's representatives five thousand pounds. They thought they could make more of the Collection by an auction, but, in the event, obtained less than four thousand pounds. The Askew Library extended only to three thousand five hundred and seventy separate printed works, but it contained a large proportion of rare and choice books. The chief buyers at the sale were the Duke of LA VALLIÈRE and (through the agency of DE BURE) LEWIS THE SIXTEENTH. The King of England bought comparatively little, although on this occasion Mr. BARNARD could scarcely have witholden his hand on the

of the special injunctions which the King had formerly
down for his guidance in such public competitions.

For it deserves to be remembered that GEORGE THE
SECOND's conscientious thoughtfulness for other people led
early in his career as a Collector, to give to his
various a general instruction such as the servants of
lucky Collectors rarely receive. 'I do not wish you,' he
, 'to bid either against a literary man who wants books
study, or against a known Collector of small means.'
was very free to bid, on the other hand, against a Duke
ROXBURGHE or an Earl SPENCER.

The King's kindness of nature was also shown in the
access which he at all times afforded to scholars and
artists in his own Library. To this circumstance we owe
some of the most interesting notices we have of his opinions
on authors and of books.

In the earliest years of the Royal Collectorship part of
the Library was kept in the old palace at Kew, which has
since disappeared, the site of it being now a gorgeous
park. Afterwards, and on the acquisition for the
King, of Buckingham House,* the chief part of the Col-
lection was removed to Pimlico, and arranged in the hand-
some rooms of which a view appears, by way of vignette,
on the title-pages of the sumptuously printed catalogue
compiled by BARNARD. It was at Buckingham House that
Johnson's well-known conversation with the King took
place in February, 1767.

When JOHNSON first began to use the Royal Collection it

the mansion for which the Trustees of the British Museum had
been asked to give £30,000 was sold, five years afterwards, to the King
for £6000. It was purchased for the Queen as a jointure-house in lieu
of a proper mansion, Somerset House, then devoted to public purposes.
Several royal princes and princesses were born in Buckingham House,
George IV, and one, perhaps, of the younger children.

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THE OLD
LOCALITIES
OF THE
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was still in its infancy. He was surprised both at its extent and at the number of rare and choice books which it already included. He had seen BARNARD'S assiduity, and had helped him occasionally in his book-researches, long prior to the tour of 1768. But it astonished him to see that the King, within six or seven years, had gathered so fine a Library as that which he saw in 1767. He became a frequent visitor. The King, hearing of the circumstance, desired his librarian to let him know when the literary autocrat came again.

THE INTER-
VIEW AT
BUCKING-
HAM HOUSE
BETWEEN
GEORGE III
AND DR.
JOHNSON.

1767, Febru-
ary.

The King's first questions were about the doings at Oxford, whence, he had been told, Johnson had recently returned. The Doctor expressed his inability to bestow much commendation on the diligence then exhibited by the resident scholars of the University in the way of any conspicuous additions to literature. Presently, the King put to him the question, 'And what are you about yourself?' 'I think,' was the answer—given in a tone more modest than the strict sense of the words may import—'that I have already done my part as a writer.' To which the King rejoined, 'I should think so too, had you not written so well.' After this happy retort, the King turned the conversation on some recent theological controversies. About that between WARBURTON and LOWTH he made another neat though obvious remark—'When it comes to calling names, argument, truly, is pretty well at an end.' They then passed in review many of the periodical publications of the day, in the course of which His Majesty displayed considerable knowledge of the chief books of that class, both English and French. He showed his characteristic and kingly attention to minutiae by an observation which he made when JOHNSON had praised an improved arrangement of the contents of the *Philosophical Transactions*—

Croker's
Boswell, pp.
184-186.

vious, at the moment, that he had himself suggested the
age. 'They have to thank Dr. JOHNSON for that,' said
King.

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Another remark made by GEORGE THE THIRD during this
conversation deserves to be remembered. 'I wish,' said he,
that we could have a really well-executed body of British
geography.' This was a desideratum in the seventh year
of the old King, and it is a desideratum still in the thirty-
fourth year of his granddaughter. The reign of Queen VIC-
TORIA was comparatively young when the late Mr. MURRAY
announced, not without some flourish of trumpets, a
coming attempt at such a labour, but the little that
he said as to the precise plan and scope of the work then
proposed, gave small promise of an adequate perform-
ance, and hitherto there has been no performance at all.

Years after the interview with JOHNSON, another lite-
rary conversation, of which we have a record, was held in
the Royal Library. But on this occasion the scene was

THE KING'S
CONVERSA-
TION WITH
DR.
BEATTIE;

Dr. BEATTIE's fame is now a thing of the past.
There is still, however, some living interest in the account
of the talk between the author of *The Minstrel* and his
son-in-law, held in 1773, about liturgies, about prayers occa-
sional and prayers *ex tempore*, and about the methods of
instruction adopted in the Scottish universities.

1773.
August.
Forbes, *Life*
of Beattie,
vol. i, pp. 347-
354.

King's least favourable—but not least characteristic
appearance, as a talker on literary subjects, is made in
his conversation with Miss BURNEY, in which he uttered
the en-quoted remark on SHAKESPEARE :—' Was there
much stuff as great part of *Shakespeare*—only one
word to say so?' The sense of the humorous seems in
this conversation to have been wholly lacking. And some part
of the sadness of his life has probably a vital connexion
with that deficiency.

AND WITH
MISS
BURNEY.

1786.
December.

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D'Arblay,
Diary, vol. ii,
pp. 395-398.

In the last-mentioned conversation, the King evinced considerable acquaintance with French literature. He shared, to some extent, the then very general admiration for ROUSSEAU, on whom he had bestowed more than one act of kindness during the brief English exile of the author of *Emile*. He shared, also, the common impression as to the absence of gratitude in the brilliant Frenchman's character. When Miss BURNEY told him that his own portrait had been seen to occupy the most conspicuous place in ROUSSEAU's living-room after his return to France, the King was both surprised and touched.

Next after the large and choice acquisitions made for the King's Library on the Continent, some of its most conspicuous and valuable literary treasures were acquired at the several sales, in London, of the Libraries of JAMES WEST (1773), of JOHN RATCLIFFE (1776), and of RICHARD FARMER (1798). It was at the first of these sales that GEORGE THE THIRD laid the foundation of his unequalled series of the productions of the father of English printing.

GEORGE THE
THIRD'S
SERIES OF
BOOKS FROM
CAXTON'S
PRESS.

The *Caxtons* bought for the King at West's sale included the dearly prized *Recuyell of the Histories of Troye* (1472-1474?), the *Booke of the Chesse* (1476?), the *Canterbury Tales* of CHAUCER (1478?), the *Dictes and Sayinges of the Philosophers* (1480), the *Mirroure of the World* (1481), the *Godfrey of Boloyne* (1482), the *Confessio Amantis* (1483), the *Paris and Vienne* (1485), and the *Royal Booke* (1487?). Of these, the lowest in price was the *Confessio* of 1483, which the King acquired for nine guineas, and the highest in price was the *Chaucer* of 1478, which cost him forty-seven pounds fifteen shillings.

At the same sale, he also acquired another Caxton, which has a peculiar interest. The King's copy of the *Troylus*

l Creside (probably printed in the year 1484) formerly
onged

'To Her, most gentle, most unfortunate,
Crowned but to die—who in her chamber sate
Musing with Plato, though the horn was blown,
And every ear and every heart was won,
And all, in green array, were chasing down the sun;'

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it bears her autograph.

Three years after the dispersion of West's Library came
of the extraordinary Collection which had been made
at Bermondsey ship-chandler, John RATCLIFFE by name.
A worthy and fortunate Collector has been said, com-
ly, to have amassed his black-letter curiosities by buying
at so much a pound, over his counter.* But of such
falls no man has ever been so lucky as to have more
a few. John RATCLIFFE was, like his King, a large
at West's sale, and at many other sales, upon the
nary terms.

JOHN RAT-
CLIFFE OF
BERMOND-
SEY AND HIS
CURIOUS LI-
BRARY.

y pains and perseverance he had collected of books
ed by CAXTON the extraordinary number of forty-
No Collector ever surpassed, or even reached, that
ber, except Robert HARLEY, in whose days books that
now worth three hundred pounds could, not infre-
tly, be bought for much less than the half of three
red pence.

RATCLIFFE's forty-eight *Caxtons* produced at his sale
hundred and thirty-six pounds. The King bought
y of them at an aggregate cost of about eighty-five
ds. Amongst them were the *Boethius*, of 1478; the
Arde the Foxe, of 1481; the *Golden Legende*, and the

re story, I observe, has been endorsed in Mr. Blades' excellent *Life*
ston (see part 2, p. 268), but it is undoubtedly a distortion or
ration of some chance occurrence. No such series could have
rmed otherwise than, in the main, by systematic research.

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Curial, both of 1484; and the *Speculum Vitæ Christi*, probably printed in 1488. The *Boethius* is a fine copy, and was obtained for four pounds six shillings. A few years ago an imperfect copy of the same book brought more than sixteen times that sum.

GIFTS TO
THE KING'S
LIBRARY.

Two others of the King's *Caxtons* were the gift of Jacob BRYANT. One of these is Ralph LEFEVRE's *Recueil des histoires de Troye*, printed, probably, in 1476. The other is the *Doctrinal of Sapience*, printed in 1489. This last-named volume is on vellum, and is the only copy so printed which is known to exist. A third Caxton volume was bequeathed to GEORGE THE THIRD by Mr. HEWETT, of Ipswich. This is the *Æsop* of 1484, and is the only extant copy. It was delivered to the King by Sir John HEWETT and Mr. Philip BROKE, the legator's executors. GEORGE THE THIRD was very sensitive to the special triumphs of collectorship, and would be sure to prize the *Æsop* all the more for its attribute of uniqueness.

GEORGE III
AND THE
BIBLIO-
MANIA.

A story in illustration of this specific tinge of the bibliomania in our royal Collector was wont to be told by Sir Walter SCOTT, and is mentioned in his interesting obituary notice of the King, printed in the *Edinburgh Weekly Journal** immediately after the King's death. According to SCOTT, GEORGE THE THIRD was fond of crowing a little over his brother-collector, the Duke of ROXBURGHE, on the score that the royal copy of the famous *Recuyell of the Histories of Troye* had a pre-eminence over the Roxburghe copy. The pre-eminence was of a sort, indeed, to which no one but a thorough-paced Collector would be sensible. For it consisted in the 'locking,' or wrong imposing, of certain pages, afterwards corrected at press. The fault, therefore,

* *Edinburgh Weekly Journal*, Feb. 1820. The article is reprinted in *Miscellaneous Prose Works*, Edition of 1841, vol. ii, p. 184.

ated priority of working off. But I do not find in King's *Recuyell*—which now lies before me—the liability spoken of in the poet's story. Such a fault exist in the Roxburghe copy, which now belongs to Duke of DEVONSHIRE. Other and authenticated dotes, however, are abundant, which suffice to show close knowledge of, and the keen interest in, his books, which GEORGE THE THIRD was characterised. It was a better trait in him that he found real pleasure in seeing that the treasures and rarities of his Library served the inquiries and studies of scholars. Nor did he make narrow limitations. Men like JOHNSON and Joseph HORSLEY profited by the Collection. So, too, did like GIBBON and PRIESTLEY.

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The total number of Caxton prints amassed by GEORGE III thirty-nine. Of these three are in the Royal Library at Windsor—namely, the *Recueil* (1476?), the *Æsop* (1484), the *Doctrinal* (1489).

With a keen enjoyment of the pleasures of collectorship, King added, in 1787, a passing taste of those of authorship. As a Collector, the bibliomania did not engross him.

GEORGE THE
THIRD'S
APPEARANCE
AS AN
AUTHOR.

He had a delight in amassing fine plants as well as books. The *Hortus Kewensis* (in both applications of the term) was largely indebted to his liberality of expenditure and to his far-spread research. He sent botanic missions to the remotest parts of Asia, as well as to Africa. He took the most cordial interest in those varied voyages of discovery which—as I have observed in a former chapter—were so distinctive a lustre on his reign, and in consequence of which such large additions were made to our natural history collections, public and private. And he did much to promote scientific agriculture, both by precept and by

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example. It was as a practical agriculturist that the King (under a slight veil of pseudonymity*) made his bow to the reading public by the publication of seven articles in Arthur YOUNG's useful and then well-known periodical, the *Annals of Agriculture*.

Those articles have a threefold aim. They inculcate the wisdom, for certain soils, of an intermediate system of treatment and of cropping, midway between the old routine and the drill-husbandry, then of recent introduction; they describe several new implements, introduced by DUCKET of Esher and of Petersham; and they advocate an almost entire rejection of fallows. They further describe a method, also introduced by Farmer DUCKET, and then peculiar, of destroying that farmer's pest, couch-grass (*triticum repens*), by trench-ploughing it deep into the ground, and contain many other practical suggestions, some of which seem to have been empirical, and others so good that they have become trite.

But the best service rendered by GEORGE THE THIRD to the agricultural pursuits, of which he was so fond, was his introduction of the Merino flocks, which became conspicuous ornaments to the great and little parks at Windsor. Part of the success which, for a time, attended the importation of those choice Merino breeds was due to the zealous co-operation of LORD SOMERVILLE and of Sir Joseph BANKS [see the next chapter], but the King himself took a real initiative in the matter; acquired real knowledge about it; and deserved, by his personal efforts, the cognomen given him (by some of those worthy farmers who used to attend the annual sales at Windsor) of 'the Royal Shepherd.'

* 'Ralph Robinson' is the name signed to the communications to the *Annals of Agriculture*, but they are dated from Windsor. (See *Annals*, vol. vii, 1787.)

recreative pursuits, alike of the book-collector and agriculturist, as well as the labours of the conscientious monarch, were at length to be arrested by that calamity which, after clouding over some months of years of vigour, was destined to veil in thick gloom all years of decline—the years when great public triumphs ushering family afflictions passed equally unnoted by the lull of Windsor.

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ILLNESS OF
GEORGE III.;
1810.

'Thy lov'd ones fell around thee.
 Thou, meanwhile,
 Didst walk unconscious through thy royal towers,
 The one that wept *not*, in the tearful isle!

 But who can tell what visions might be thine?
 The stream of thought, though broken, still was pure.
 Still on that wave the stars of Heaven might shine
 Where earthly image would no more endure.
 Nor might the phantoms to thy spirit known,
 Be dark or wild,—creations of Remorse,—
 Unstain'd by thee, the blameless Past had thrown
 No fearful shadows o'er the Future's course.'

When GEORGE THE THIRD died at Windsor Castle, on the 29th of January, 1820, the public mourning was . . . During its ten years of rule, the Regency had done much to heighten and intensify regret for the calamity of 1801. The errors of the old monarch came, naturally, to the fore, dwarfed to the view, when his private virtues acquired a sharp saliency of contrast.

AND HIS
DEATH.

1820.
January.

After his death, political writers have usually been somewhat harsh to his memory. But the verdict of history has not yet been given in. When the time for its delivery is at length come, there will be a long roll of good deeds set off against many mistakes in policy. Nor will the piety, and the earnest conscientiousness of the royal man—up to the measure of the light vouchsafed

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to him—be forgotten in the preliminary summing up. What GEORGE THE THIRD did for Britain simply in conferring upon it the social blessings of a pure Court, and of a bright personal example, is best to be estimated by contemplating what, in that respect, existed before it, and also what came immediately after it. Comparisons of such a sort will serve, eventually, to better purpose than that of feathering the witty shafts of reckless satirists, whether in prose or in verse. Meanwhile, it is enough to say that no honester, no more God-fearing man, than was GEORGE THE THIRD, ever sat upon the throne of England.

STATE OF
THE KING'S
LIBRARY IN
JANUARY,
1830.

During all the time of his long illness, the King's Library had continued, more or less, to grow. When he died, it contained sixty-five thousand two hundred and fifty volumes, besides more than nineteen thousand unbound tracts. These have since been bound severally. The total number of volumes, therefore, which the Collection comprised was about eighty-four thousand. At the time of the King's decease, the annual cost of books in progress, and of periodical works, somewhat exceeded one thousand pounds. The annual salaries of the staff—four officers and two servants—amounted to eleven hundred and seventy-one pounds. The Library occupied a fine and extensive suite of rooms in Buckingham Palace. One of them was large enough to make a noble billiard-room.

The Royal Library, therefore, embarrassed King GEORGE THE FOURTH in two ways. It cost two thousand two hundred pounds a year, even without making any new additions to its contents. It occupied much space in the royal residence which could be devoted to more agreeable purposes. Then came the welcome thought that, instead of being a charge, it might be made a source of income. The

peror of Russia was known to covet, as a truly imperial
ary, what to the new King of Great Britain was but a
ly burden. He broached the idea—but met, instead of
ouragement, with strong remonstrance.

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The news of the royal suggestion soon spread abroad.
ongst those who heard of it with disgust were Lord
UNBOROUGH (who is said to have learnt the design in
ing, one day, with Princess LIEVEN) and Richard
BER. Both men bestirred themselves to prevent the
g from publicly disgracing the country in that way.
d FARNBOROUGH betook himself to a conference with
Premier, Lord LIVERPOOL. Mr. HEBER discussed the
ter with Lord SIDMOUTH. By the ministers, public
ion upon the suggested sale was pretty strongly and
hatically conveyed to His Majesty, whatever may have
the courtliness of tone employed about it.

GEORGE THE FOURTH, however, was not less strongly
essed by the charms of the prospective rubles from
ia. He felt that he could find pleasant uses for a
fall of a hundred and eighty thousand pounds, or so.
he fought hard to secure his expected prize—or some
itably solid equivalent. 'If I can't have the rubles,'
the King, 'you must find me their value in pounds
g.' The Ministers were much in earnest to save the
ry, and, in the emergency, laid their hands upon a
n surplus which had accrued from a fund furnished
years before by France, to meet British claims for
sustained at the date of the first French Revolution.
ne expedient became the subject of an unpleasant
in the House of Commons. And the Government, it
, then resorted to that useful fund, the 'Droits of
alty.' By hook or crook, GEORGE THE FOURTH
d his 'equivalent.' He then sat down to his writing-

CONFERENCE BE-
TWEEN
GEORGE IV
AND HIS
MINISTERS
ON DISPOSAL
OF THE
LIBRARY.

R. Ford, in
the *Quarterly
Review* (Dec.,
1850), vol.
lxxxviii, p.
143;

Comp.
*Minutes of
Evidence
taken by the
Commission-
ers on Brit.
Mus.* (also in
1850), pp. 117,
118.

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table (at Brighton), to assure Lord LIVERPOOL—in official capacity—of the satisfaction he felt in his 'this means of advancing the Literature of my Country. Then he proceeded to add :—' I also feel that I am paying a just tribute to the memory of a Parent, whose life adorned with every public and private virtue.'

The Executors or Trustees of King GEORGE THE THIRD knew well what the monarch's feelings about his Library would, in all reasonable probability, have been, had he possessed mental vigour when preparing for his last charge. They exacted from the Trustees of the Museum a promise that the Royal Library should be preserved apart, entire.

THE NEW
BUILDING
ERECTED
FOR THE
GEORGIAN
LIBRARY.
1821-28.

Parliament, on its side, made a liberal provision for the erection of a building worthy to receive the Georgian Library. The fine edifice raised in pursuance of a Parliamentary vote cost a hundred and forty thousand pounds. It provided one of the handsomest rooms in Europe for its main purpose, and it also made much-needed arrangements for the reception and exhibition of natural-history collections, above the books.

The removal of the Royal Library from Buckingham House was not completed until August, 1828. All who saw the Collection whilst the building was in its purity of colour—and who were old enough to form an opinion on such a point—pronounced the receptacle to be eminently worthy of its rich contents. The floor-cases and the heavy tables—very needful, no doubt—have detracted not a little from the architectural effect and elegance of the room itself.

Along with the printed books, and the extensive geographical Collections, came a number of manuscripts—

historical, literary, and geographical subjects.* By some transient forgetfulness of the pledge given to Lord FARNBOROUGH, the manuscripts, or part of them, were, in March, 1841, sent to the 'Manuscript Department' of the Museum. But Mr. PANIZZI, then the Keeper of the Printed Books, successfully reclaimed them for their due place of deposit, according to the arrangement of 1823. Nor was such a claim a mere official punctilio.

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*Minutes of
Evidence
(1850), as
above.*

In every point of view, close regard to the wishes of donors, or of those who virtually represent them, is not more a matter of simple justice than it is a matter of wise and foreseeing policy in the Trustees of Public Museums. The integrity of their Collections is often, and naturally, an anxious desire of those who have formed them. In a subsequent chapter (C. ii of Book III) it will be seen that the wish expressed by the representatives of King GEORGE THE THIRD was also the wish of a munificent contemporary and old minister of his, who, many years afterwards, gave to the Nation a Library only second in splendour to that which had been gathered by GEORGE THE THIRD.

Not the least curious little fact connected with the Georgian Library and its gift to the Public, is that the gift was *predicted* thirty-one years before GEORGE THE FOURTH wrote his letter addressed to Lord LIVERPOOL from the Pavilion at Brighton, and twenty-eight years before the death of GEORGE THE THIRD.

In 1791, Frederick WENDEBORN wrote thus:—'The King's private Library . . . can boast very valuable and magnificent books, which, as it is said, will be one time or another

* Curiously enough, three volumes of the Georgian MSS. had belonged to Sir Hans Sloane, and had, in some unexplained way, come to be separated from the bulk of his Collection. They now rejoined their old companions in Great Russell Street.

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joined to those of the British Museum.' WENDEBORN* was a German preacher, resident in London for many years. He was known to Queen CHARLOTTE, and had occasional intercourse with the Court. May it not be inferred that on some occasion or other the King had intimated, if not an intention, at least a thought on the matter, which some courtier or other had repeated in the hearing of Dr. WENDEBORN?

* See, before, p. 339.

CHAPTER V.

THE FOUNDER OF THE BANKSIAN MUSEUM AND LIBRARY.

'It may be averred for truth that they be not the highest instances that give the best and surest information. . . . It often comes to pass [in the study of Nature] that small and mean things conduce more to the discovery of great matters, than great things to the discovery of small matters.'—BACON.

'Not every man is fit to travel. Travel makes a wise man better, but a fool worse.'—OWEN FELLTHAM.

The Life, Travels, and Social Influence, of Sir Joseph BANKS.—The Royal Society under his Presidency.—His Collections and their acquisition by the Trustees of the British Museum.—Notices of some other contemporaneous accessions.

WE have now to glance at the career—personal and scientific—of an estimable public benefactor, with whom King GEORGE THE THIRD had much pleasant intercourse, both of a public and a private kind. Sir Joseph BANKS was almost five years younger than his royal friend and correspondent, but he survived the King by little more than three months, so that the Georgian and the Banksian Libraries were very nearly contemporaneous accessions. The former, as we have seen, was given in 1823, and fully received in 1828; the latter was bequeathed (conditionally) in 1820, and received in 1827. These two accessions, taken conjointly, raised the Museum collection of books

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ARY.

(for the first time in its history) to a respectable rank amongst the National Libraries of the day. The Banksian bequest made also an important addition to the natural-history collections, especially to the herbaria. It is as a cultivator and promoter of the natural sciences, and pre-eminently of botany, that Sir Joseph won for himself enduring fame. But he was also conspicuous for those personal and social qualities which are not less necessary to the man, than are learning and liberality to the philosopher. For the lack of such personal qualities some undoubted public benefactors have been, nevertheless, bad citizens. In this public benefactor both sets of faculties were harmoniously combined. They shone in his form and countenance. They yet dwell in the memory of a survivor or two, here and there, who were the contemporaries of his closing years.

Joseph BANKS was born at Reresby Abbey, in Lincolnshire, on the thirteenth of December, 1743. He was the only son of William BANKS-HODGKENSEN, of Reresby Abbey, by his wife Sophia BATE.

KSES
ERESBY
NY.

Mr. BANKS-HODGKENSEN was the descendant of a Yorkshire family, which was wont, of old, to write itself 'Banke,' and was long settled at Banke-Newton, in the wapentake of Staincliffe. The second son of a certain Henry BANKE, of Banke-Newton, acquired, by marriage, Beck Hall, in Giggleswick; and by his great grandson, the first Joseph BANKES, Reresby Abbey was purchased towards the close of the seventeenth century. His son (also Joseph) sat in Parliament for Peterborough, and served as Sheriff of Lincolnshire in 1736. The second (and eldest surviving) son of the Member for Peterborough took the name of HODGKENSEN, as heir to his mother's ancestral estate of Overton, in Derbyshire, but on the death of his elder brother (and his consequent heirship) resumed the

paternal name, and resigned the Overton estate to his next brother, who became Robert HODGKINSON, of Overton. Mr. BANKS-HODGKINSON died in 1761, leaving to his son, afterwards Sir Joseph BANKS, a plentiful estate.

The youngster was then little more than beginning his career at Oxford, whither he had recently come from Eton, though his schooling had been begun at Harrow. He was 'lord of himself,' and of a fine fortune, at the critical age of eighteen. To many, such an inheritance, under like circumstances, has brought misery. To Joseph BANKS, it brought noble means for the prosecution of a noble aim. It was the ambition of this young Etonian—not to eclipse jockies, or to dazzle the eyes of fools, but—to tread in the footsteps of LINNÆUS. Rich, hardy, and handsome in person, sanguine in temperament, and full of talent, he resolved that, for some years to come, after leaving the University, the life that might so easily be brimmed with enjoyments should incur many privations and face many hardships, in order to win both knowledge and the power of benefiting the Public by its communication. That object of early ambition, it will be seen, was abundantly realised in the after-years.

There is no reason to think that a resolution, not often formed at such an age as eighteen, was come to in the absence of temptation to a different course. BANKS was no ascetic. Nor was it his fortune, at any time, to live much with ascetics. One of his earliest friends was that Lord SANDWICH* whose memory now chiefly connects itself with the unsavoury traditions of Medmenham Abbey, and with the peculiar pursuits in literature of John WILKES. With SANDWICH he spent many of the bright days of

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EARLY
YEARS OF
SIR JOSEPH
BANKS.

* John Montagu, fourth Earl of Sandwich (1729-1792).

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youth in fishing on Whittlesea Mere. BANKS had the good fortune—and the skill—to make his early acquaintanceship with the future First Lord of the Admiralty conducive to the interests of science. The connexion with the Navy of another friend of his youth, Henry PHIPPS, afterwards Earl of MULGRAVE, was also turned, eventually, to good account in the same way.

Part of young BANKS' vacations were passed at Reresby and in frequent companionship with Lord SANDWICH; part at his mother's jointure-house at Chelsea, very near to the fine botanic garden which, a few years before, had been so much enriched by the liberality of Sir Hans SLOANE. In that Chelsea garden, and in other gardens at Hammer-smith, BANKS studied botany with youthful ardour. And he made frequent botanic excursions in the then secluded neighbourhood. In the course of one of these rambles he fell under suspicion of felony.

'KS'
 THFUL
 ENTURE
 R HAM-
 SMITH.

He was botanizing in a ditch, and his person happened to be partially concealed by a thick growth of briars and nettles, at a moment when two or three constables, who were in chase of a burglar, chanced to approach the spot. The botanist's clothes were in a miry condition, and his suspicious posture excited in the minds of the local Dogber-ries the idea that here they had their man. They were deaf to all expostulations. The future President of the Royal Society was dragged, by ignominious hands, before the nearest justice. The magistrate agreed with the constables that the case looked black, but, before committing either the prisoner or himself, he directed that the culprit's pockets should be searched. They contained little money, and no watches; but an extraordinary abundance of plants and wild flowers. The explanations which before had been refused were now accepted, and very courteous apologies

were tendered to the victim of an excess of official zeal. But the awkwardness of the adventure failed to deter the sufferer from his eager pursuit, in season and out of it, of his darling science. A botanist he was to be.

He left Oxford in 1763, and almost instantly set out on a scientific voyage to Newfoundland and Labrador. Here he laid the first substantial groundwork of his future collections in natural history. He sailed with PHIPPS, who was already a captain in the Navy, and had been charged with the duty of protecting the Newfoundland fisheries. The voyage proved to be one of some hardship, but its privations rather sharpened than dulled the youthful naturalist's appetite for scientific explorations. He had learned thus early to endure hardness, for a worthy object.

His second voyage was to the South Seas, and it was made in company with the most famous of the large band of eighteenth-century maritime discoverers—James Cook, and also with a favourite pupil of LINNÆUS (the idol of BANKS' youthful fancy), Daniel Charles SOLANDER, who, though he was little above thirty years of age, had already won some distinction in England, and had been made an Assistant-Librarian in the British Museum.*

To make the voyage of *The Endeavour* as largely conducive as was possible to the interests of the natural sciences, Mr. BANKS incurred considerable personal expense, and he induced the Admiralty to make large efforts, on its

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THE FIRST
VOYAGE OF
EXPLORA-
TION TO
NEWFOUND-
LAND AND
LABRADOR.
1763.

THE SECOND
VOYAGE;—
TO THE
SOUTH SEAS.
1768.

* Solander, who was afterwards to be so intimately connected with the Banksian Collections, had been for some years in this country when he was selected by Banks to be one of his companions in the voyage of *The Endeavour*. He was born in Sweden, in the year 1736. He came to England in July, 1760. He succeeded Dr. Maty, as Under-Librarian of the British Museum, in 1773, when Maty was made Principal Librarian. At that date he had already served the Trustees for many years as one of their Assistant-Librarians.

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part, to promote and secure the various objects of the new expedition. One of those objects was the observation at Otaheite of a coming transit of Venus over the Sun ; another was the further progress of geographical discovery in a quarter of the world to which public interest was at that time specially and strongly turned. BANKS, individually, was also bent on collecting specimens in all departments of natural history, and on promoting geographical knowledge by the completest possible collection of drawings, maps, and charts of all that was met with. He engaged Dr. SOLANDER as his companion, and gave him a salary of four hundred pounds a year. With them sailed two draughtsmen and a secretary, besides four servants.

THE BOTA-
NICAL EX-
PLORATIONS
AT TERRA-
DEL-FUEGO.

1769.
January.

The Endeavour set sail from Plymouth on the twenty-sixth of August, 1768, and from Rio-de-Janeiro on the eighth of December. On the fourteenth of January, 1769, the naturalists landed at Terra-del-Fuego, and they gathered more than a hundred plants theretofore unknown to European botanists. Proud of their success, they resolved that, after a brief rest, they would explore the higher regions, in hope to reap a rich harvest of Alpine plants. SOLANDER, as a Swede and as a traveller in Norway, knew something of the dangers they would have to face. BANKS himself was not without experience. But both were enterprising and resolute men. They set out on their long march in the night of the fifteenth of January, in order to gain as much of daylight as possible for the work of botanizing. They hoped to return to the ship within ten hours. As they ascended, SOLANDER warned his companions against the temptation that he knew awaited them of giving way to sleep when overcome by the toil of walking. 'Whoever sits down,' said he, 'will be sure to sleep, and whoever sleeps will wake no more.' But the fatigue proved to be

excessive. The foreseeing adviser was borne down by it, and was the first to throw himself upon the snow. BANKS was the younger man by six or seven years, and had a strong constitution. He fought resolutely against temptation, and, with the help of the draughtsmen, exerted himself with all his might to keep SOLANDER awake. They succeeded in getting him to walk on for a few miles more. Then he lay down again, with the words, 'Sleep I must, for a few minutes.' In those few minutes the fierce cold almost paralysed his limbs. Two servants (a seaman and a negro) imitated the Swede's example, and were really paralysed. With much grief, it was found that the servants must, inevitably, be left to their fate. The party had wandered so far that when they set about to return they were—if the return should be by the way they had come—a long day's journey from the ship. And their route had lain through pathless woods. Their only food was a vulture. A third man seemed in peril—momentarily—of death by exhaustion. Happily, a shorter cut was found. Their journey had not been quite fruitless. But they all felt that they had bought their botanical specimens at too dear a rate. Two men were already dead. One of the draughtsmen seems to have suffered so severely that he never recovered from the effects of the journey. Mr. BUCHAN died, three months afterwards, in Otaheite, just four days after they had landed in the celebrated island, to visit which was among the especial objects of their mission.

The transit of Venus over the Sun's disc was satisfactorily observed on the third of June, but the observation had been nearly foiled by the roguery of a native, who had carried off the quadrant. The thief was found amongst several hundred of his fellows, and, but for a characteristic combination in BANKS of frank good humour and of firm hardi-

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THE STAY IN
OTAHETE.
1769.

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hood, the spoil would not have been recovered. On this, as upon many other occasions, both his fine personal qualities and his genial manners marked him as a natural leader of men. On occasions, however, of a more delicate kind they brought him into a peculiar peril. Queen OBEREA fell in love with him. She was not herself without attractions. And they were clad in all the graces of unadorned simplicity. The poetical satirists of his day used Sir Joseph—after his return—with cruel injustice if he was really quite so successful, in resisting feminine charms in Otaheite, as he had formerly been at home.

THE VOYAGE
TO NEW
HOLLAND.
1769-1770.

But however that may have been, his researches, as a naturalist, at Otaheite were abundantly successful. And to the island, in return, he was a friend and benefactor. After a stay of three months the explorers left Otaheite for New Holland on the 15th of August, 1769. In Australia their collections were again very numerous and valuable. But their long stay in explorations exposed them to two great dangers, each of which was very nearly fatal to Mr. BANKS and to most of his companions. They struck upon a rock, while coasting New South Wales. Their escape was wonderful. The accident entailed an amount of injury to the ship which brought them presently within a peril more imminent still. Whilst making repairs in the noxious climate of Batavia, a pestilence seized upon nearly all the Europeans. Seven, including the ship's surgeon, died in Batavia. Twenty-three, including the second draughtsman, Mr. PARKINSON, died on shipboard afterwards. BANKS and SOLANDER were so near death that their recovery seemed, to their companions, almost miraculous.

THE RETURN
HOME.
1771.
June.

After leaving New South Wales and Batavia they had a prosperous passage to the Cape—prosperous, save for the loss of those whom the pestilence had previously stricken—

and made some additions to their scientific stores. *The Endeavour* anchored in the Downs on the 12th of June, 1771, after an absence of nearly three years. Beyond the immediate and obvious scientific results of the voyage, it was the means, eventually, of conferring an eminent benefaction on our West Indian Colonies. It gave them the Bread-Fruit tree (*Artocarpus incisa*). The transplantation of God's bounties from clime to clime was a favourite pursuit—and a life-long one—with Sir Joseph BANKS, and its agencies cost him much time and thought, as well as no small expenditure of fortune.

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The hardships and sufferings of Terra-del-Fuego and of Batavia had not yet taken off the edge of his appetite for remote voyages. He expended some thousands of pounds in buying instruments and making preparations for a new expedition with Cook, but the foolish and obstructive conduct of our Navy Board inspired him with a temporary disgust. He then turned his attention to Northern Europe. He resolved that after visiting the western isles of Scotland he would explore Iceland. SOLANDER was again his companion, together with two other northern naturalists, Drs. LIND and VON TROIL. BANKS chartered a vessel at his own cost (amounting, for the ship alone, to about six hundred pounds).

THE EXPEDI-
TION TO ICE-
LAND.
1772.
July.

Before starting for the cold north, they refreshed their eyes with the soft beauties of the Isle of Wight. There, said one of the delighted party, 'Nature has spared none of her favours;' and a good many of us have unconsciously repeated his remark, long afterwards. They reached the Western Isles of Scotland before the end of July, and, after a long visit, explored Staffa, the wonders of which were then almost unknown. Scientific attention, indeed,

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possessor of graceful manners and of no mean powers of conversation. It was, therefore, quite in the ordinary course of things that his house in London should become one of the social centres of the metropolis. It became much more than that. From the days of his youth BANKS had seen much of foreigners; he had mixed with men of European distinction. An extensive correspondence with the Continent became to him both a pursuit and an enjoyment, and one of its results, in course of time, was that at his house in Soho Square every eminent foreigner who came to England was sure to be seen. To another class of persons that house became scarcely less distinguished as the abode, not only of the rich Collections in natural history which their owner had gone so far to seek, and had gathered with so much toil and hardship, but of a noble Library, for the increase of which the book-shops of every great town in Europe had been explored.

THE ROYAL
SOCIETY,
AND ITS HIS-
TORY UNDER
THE RULE OF
SIR JOSEPH
BANKS.

The possessor of such manifold distinctions and of such habits of mind seemed, to most men, marked out as the natural head of a great scientific institution. Such a man would be sure to reflect honour on the Society, as well as to derive honour from his headship. But at this particular epoch the Royal Society (then the one conspicuous scientific association in the kingdom) was much embroiled. Mr. BANKS was, in many respects, just the man to assuage dissensions. But these particular dissensions were of a kind which his special devotion to natural history tended rather to aggravate than to soften.

Mathematicians, as all men know, have been illustrious benefactors to the world, but—be the cause what it may—they have never been famous for a large-minded estimate of the pursuits and hobbies of other men, whom Nature had not made mathematical. At the time when Joseph

BANKS leaped—as one may say—into eminence, both scientific and social, in London, Sir John PRINGLE was President of the Royal Society, and his position there somewhat resembled the position in which we have seen Sir Hans SLOANE to have been placed. Like Sir Hans, PRINGLE was an eminent physician, and a keen student of physics. He did not give umbrage to his scientific team, exactly in the way in which SLOANE had given it—by an overweening love of reading long medical papers. But natural, not mathematical, philosophy, was his forte; and the mathematicians were somewhat uneasy in the traces whilst Sir John held the reins. If PRINGLE should be succeeded by BANKS, there would be a change indeed on the box, but the style of coachmanship was likely to be little altered. It is not surprising that there should have been a good deal of jibbing, just as the change was at hand, and also for some time after it had been made.

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See before,
Book I,
c. 6.

Mr. BANKS was elected to the chair of the Royal Society on the 30th of November, 1777. He found it to be a very difficult post. But, in the end, the true geniality of the man, the integrity of his nature, and the suavity of his manners, won over most, if not quite all, of his opponents. The least that can be said of his rule in that chair is that he made the Royal Society more famous throughout Europe, than it had ever been since the day when it was presided over by NEWTON.

THE ELEC-
TION TO THE
PRESIDENCY.

1777.
30 Nov.

For it was not the least eminent quality of BANKS' character that, to him, a touch of *science* 'made the whole world kin.' He was a good subject, as well as a good man. He knew the blessings of an aristocratic and time-honoured monarchy. He had that true insight which enables a man to discriminate sharply between the populace and the People.

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DER OF THE
AMERICAN
MUSEUM
AND
LIBRARY.

But, when the interests of science came into play, he could say—with literal and exactest truth,—

‘Tros Tyriusve mihi nullo discrimine agetur.’

He took a keen and genial delight both in watching and in promoting the progress of science on the other side of the Channel, whether France itself lay under the loose rule of the republican and dissolute Directory, or under the curbing hand of the First Consul, who was already rapidly aspiring towards empire.

Juvier,
*Éloge de M.
Banks*,
passim.

On ten several occasions, BANKS was the means of inducing our Government to restore scientific collections, which had been captured by British cruisers, to that magnificent Botanic Garden (the *Jardin des Plantes*, at Paris) for which they had been originally destined. Such conduct could not but win for him the affectionate reverence of Frenchmen. On one eminent occasion his good services went much further.

BANKS' IN-
TERVENTION
WITH RE-
SPECT TO
SOME OF
THE FRUITS
OF THE EX-
PEDITION OF
LA PÉROUSE.

Men yet remember the European interest excited by the adventurous expedition and the sad fate of the gallant seaman, John Francis DE LA PÉROUSE. When the long search for LA PÉROUSE, which had been headed by the French Admiral BRUNI D'EUTRECASTEAUX, came by discords to an untimely end, the collection of specimens of natural history which had been made, in the course of it, by DE LA BILLARDIÈRE, was brought into an English port. The commander, it seems, felt much as SLOANE's captain * had felt at the time of our own Revolution of 1688. From LEWIS THE SIXTEENTH he had received his commission. He was unprepared to yield an account of its performance to anybody else. He brought his cargo to England, and

* See Book I, c. 6.

placed it at the absolute disposal of the French emigrant Princes.

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By the eldest Prince, afterwards LEWIS THE EIGHTEENTH, directions were given that an offer should be made to Queen CHARLOTTE to place at Her Majesty's disposal whatever she might be pleased to select from the Collections of LA BILLARDIÈRE, and that all the remainder of them should be given to the British Museum.

To the interests of that Museum no man of sense will think that Sir Joseph BANKS was, at any time, indifferent. At this particular time, he had been, repeatedly, an eminent benefactor to it. By the French Prince the Collections were put at his orders for the advantage of the Museum, of which he was now a Trustee, as well as a benefactor. But his first thought was for the national honour of Britain, not for the mere aggrandizement of its Museum. 'I have never heard,' said BANKS, 'of any declaration of war between the philosophers of England and the philosophers of France. These French Collections must go to the French Museum, not to the British.' And to France he sent them, without a moment's hesitation. Such an act, I take it, is worthy of the name of 'cosmopolitanism.' The bastard imitation, sometimes current under that much abused term—that which knows of no love of country, except upon a clear balance of mercantile profit—might be more fitly called by a plainer word.

Nor were Frenchmen the only persons to benefit by the largeness of view which belonged to the new President of the Royal Society. At a later period, he heard that Collections which had been made by William VON HUMBOLDT, and subsequently seized by pirates, had been carried to the Cape, and there detained. BANKS sent to the Cape a commission for their release, and restoration to the Collector.

INSTANCES
OF BANKS'
LIBERALITY
TO HUM-
BOLDT.

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AND
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He defrayed the expenses, and refused to accept of any reimbursement. Such actions might well reflect honour on the Royal Society, as well as on the man whom the wisest among its fellows had placed at their head.

The Royal Society had but a share of its President's attention, though the share was naturally a Benjamin's portion. He worked assiduously on the Board of Agriculture. He helped to found the Horticultural Society and the Royal Institution of London. He became, also, in 1788, a co-founder of that 'African Institution' which contributed so largely, in the earlier years of this century, to promote geographical discovery in Africa, and to spread—of dire necessity, at but a snail's pace—some of the blessings of Christian civilization to those dark places of the earth which are full of cruelty.

BANKS' close intercourse with the Continent enabled him to do yeoman's service to the African Institution. Many ardent and aspiring young men in all parts of Europe were fired, from time to time, with an ambition to do some stroke or other of good work in an enterprise which was, at once, scientific and, in its ultimate issues, evangelical. Some of the aspirants were, of course, but very partially fitted or equipped for such labours. But among those who entered on it with fairest promise the protégés of BANKS were conspicuous. Some brief notice of the services he was enabled to render in this direction belongs, however, more fitly, to a somewhat later date than that at which we have, as yet, arrived.

BANKS'
FAVOURABLE
RECEPTION
AT THE
COURT OF
GEORGE III.

Among the Fellows of the Royal Society there had been much division of opinion as to the eligibility of Joseph BANKS for their Presidency. At Court, there was none. GEORGE THE THIRD, with all his genuine good nature, had

been unable to restrain a lurking dislike of Sir John PRINGLE's friendly intercourse with Benjamin FRANKLIN. He was pleased to see PRINGLE retire to his native Scotland, and to receive BANKS at Court, in Sir John's place. He did not then anticipate that the new President would, one day, offend (for a moment) his irrepressible prejudices in a somewhat like manner.

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Sometimes, Sir Joseph's attendance at Court brought him into company which had become to him, in some degree, unwonted. We have seen him making a very favourable impression in the feminine circles at Otaheite. But the ladies in attendance on Queen CHARLOTTE were less charmed with him. In March, 1788, I find Fanny BURNEY diarizing (at Windsor Castle) thus:—'Sir Joseph BANKS was so exceedingly shy that we made no acquaintance at all. If, instead of going round the world, he had only fallen from the moon, he could not appear less versed in the usual modes of a tea-drinking party. But what, you will say, has a tea-party to do with a botanist, a man of science, and a President of the Royal Society?'

D'Arblay,
Diary, vol. iv,
p. 128.

In March, 1779, Mr. BANKS made a happy marriage with Dorothea HUGESSEN, daughter and coheir of William Weston HUGESSEN, of Provender, in Kent. Two years afterwards, the King made him a Knight Grand Cross of the Order of the Bath, and cultivated his familiar and frequent acquaintance both in town and at Windsor. Ere long, he was still further honoured with the rank of a Privy Councillor. Both men were deeply interested in agriculture and in the improvement of stock. Sir Joseph shared his sovereign's liking for the Merino breeds; took an active part in managing those in Windsor Park, and for many years presided, very successfully, over the annual

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sales. The King had been willing to give away his surplus stock, for the mere sake of promoting improvement, but he was made to see that more good was likely to accrue from sales than from gifts. When in Lincolnshire Sir Joseph BANKS laboured hard for the more complete drainage of the fens, and in many ways furthered the introduction of sound agricultural methods. He was a good neighbour; though not a very keen sportsman. And most of his time was now necessarily passed either in London or in its neighbourhood. But, among other acts of good fellowship, he rarely visited Reresby Abbey without patronising a picnic ball at Horncastle, for the benefit of the public dispensary of that town. And it was noted by Lincolnshire people that when, in the after-years, Sir Joseph's severe sufferings from gout kept him much away from Reresby, the dispensary suffered also—from depletion—until Mr. DYMCKE, of Scrivelsby, had revived, after BANKS' example, the good old annual custom of the town.

1
HICAN IN-
TUTION.

It was in the year 1797, and again in 1806, that Sir Joseph was enabled to render special service to that African enterprise which lay near his heart, by enlisting in its toils a zealous German and a not less zealous Swiss—Frederick HORNEMANN and John Lewis BURCKHARDT. It was the fate of both of those enterprising men to pay the usual penalty of African exploration. HORNEMANN succumbed, after six years' service. BURCKHARDT was spared to work for ten years. Some among the minor scientific results of his well-known travels are preserved in the Public Library at Cambridge (to which he bequeathed his manuscripts). Others of them are in the British Museum. The latter would deserve record in these pages, were it now practicable. BURCKHARDT died at Cairo on the seventeenth of

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October, 1817, just eleven years after his arrival in London, from Göttingen, with that letter to Sir Joseph BANKS in his pocket which, under Divine Providence, determined his work in life. Another great public service of a like kind, rendered by Sir Joseph BANKS to his country and to mankind, was his zealous encouragement of explorations in Australia.

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Meanwhile, a new outburst of discord in the Royal Society arose out of a well-merited honour conferred on its President by the Institute of France, in 1802. It was inevitable that a body so eminent and illustrious as the French Institute should not only feel gratitude to Sir Joseph BANKS for that liberality of spirit which had dictated, in the midst of war, his many gracious and generous acts of service to Frenchmen, but should long since have reached the conviction that they would be honouring themselves, not less than honouring him, by his reception in their midst. During the momentary lull afforded by the Peace of Amiens—when the Institute was reorganized by the hand of the great man who was proud of its badge of fellowship, even when clad in the dalmatica—they placed BANKS at the head of their eight Foreign Members. BANKS' estimate of the honour of membership was much like NAPOLEON'S. 'I consider this mark of your esteem,' said BANKS, in his reply, 'the highest and most enviable literary distinction which I could possibly attain. To be the first elected as an Associate of the first Literary Society in the world surpasses my most ambitious hopes.'

HIS ELEC-
TION INTO
THE INSTI-
TUTE OF
FRANCE.

Several Fellows of the Royal Society resented these warm acknowledgments. They thought them both unpatriotic, and uncomplimentary to themselves. The mathematical malcontents, with Bishop HORSLEY at their head, eagerly

*Letter of Mi-
sogallus,*
1802 (pri-
vately
printed).

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profited by so favourable an opportunity of renewing the expression of their old and still lurking dissatisfaction with the choice of their President. HORSLEY addressed to Sir Joseph a letter of indignant and angry remonstrance. Somewhat discredibly, the Bishop chose a pseudonymous signature instead of manfully affixing his own. '*Misogallus*'* was the mask under which he made an appeal to those anti-Gallican prejudices which so many of us imbibe almost with our mother's milk, and have in after-years to get rid of. He aimed a poisoned dart at his old antagonist, when pointing one of his many passionate sentences in a way which he knew would arrest the special attention of the King. The shaft hit the mark. But the King was presently appeased. He knew BANKS, and he knew the Bishop of St. Asaph.

SIR JOSEPH
BANKS AS
AN AUTHOR.

From time to time Sir Joseph BANKS contributed many interesting articles to the *Philosophical Transactions*, and to the *Annals of Agriculture*. His able paper on the Blight in Wheat did service in its day, and was separately published. But it is not as an author that this illustrious man will be remembered. He knew how to fructify the thoughts and to disseminate the wisdom of minds more largely gifted than his own. Necessarily, space and prominence in the public eye is—more especially after a man's death—a good deal determined by authorship. Hence, in our *Biographical Dictionaries*, a crowd of small writers occupy a disproportionate place, and some true and illustrious public benefactors remain almost unnoticed. Undeniably,

* Bishop Horsley certainly forgot the ever-memorable words which he had so often read—Matt. v, 44—when he, a prelate, signed himself '*Misogallus*.'

the fame of one such benefactor as a Joseph BANKS ought to outweigh, and must, intrinsically, outweigh, that of many scores of minor penmen. His benefactions were world-wide. And by them he, being dead, yet speaks, and will long continue to speak, to very good and lofty purpose. He died in London on the ninth of May, 1820, at the venerable age of eighty-one years completed.

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He died without issue, and was succeeded in his chief Lincolnshire estates by the Honourable James Hamilton STANHOPE (afterwards Mr. STANHOPE BANKS), and by Sir Henry HAWLEY. His Kentish estates were bequeathed to Sir Edward KNATCHBULL.

DEATH.

BEQUESTS.

His Library, Herbarium, Manuscripts, Drawings, Engravings, and all his other subsisting Collections, he bequeathed to the Trustees of the British Museum, for public use for ever, subject to a life-use and a life-interest in them which, together with an annuity, he specifically bequeathed to the eminent botanist, Robert BROWN, who was, for many years, both his friend and his librarian. He also gave an annuity of three hundred pounds a year to Mr. BAUER, an eminent botanical draughtsman; and he added, largely, to the innumerable benefactions he had made in his lifetime to the Botanical Gardens at Kew. To Mr. BROWN he also left the use, for life, of his town house in Soho Square, subject to the life-interest, or the voluntary concession, of the testator's widow.

Will and
Codicils, Jan.
7 and 31; and
March 7,
1820.

In his first Codicil, Sir Joseph BANKS made a proviso that, if it should be the desire of the Trustees of the British Museum—and if that desire should also receive the approval of Mr. BROWN—the life-possessor should be at full liberty to cause the Collections to be transferred to the Museum during his lifetime. That, in fact, was the course which, by mutual consent, was eventually taken, to the manifest

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advantage of the British Public and the promotion of Science.

OTHER BE-
QUESTS.

Part of Sir Joseph's personal Manuscripts were bequeathed to the Royal Society; another portion to the British Museum; and a third portion (connected with the Coinage of the Realm) to the Royal Mint. A minor part of his Collections in Natural History had been given to the British Museum in his own lifetime, and he had personally superintended their selection and arrangement. He had also been a benefactor to the Hunterian Museum at Glasgow, to the Museum of the London College of Surgeons, and to that, also in London, formerly known as 'Bullock's Museum.' He was, throughout life, as eager to give, as he was diligent to get.

THE
TRANSFER
OF THE
BANKSIAN
COLLEC-
TIONS TO THE
MUSEUM.

About the year 1825, negotiations were opened by the Trustees of the British Museum with Mr. Robert BROWN, with the view of obtaining for the Public the immediate use of the Banksian Library and the other Collections, and, along with them, the public services of the eminent botanist under whose charge they then were. The then President of the Royal Society, Sir Humphrey DAVY, acted for the Public in that negotiation; but some delays intervened, so that it was not brought to a close until nearly the end of the year 1827.

At that date, the transfer was effected. MR. BROWN became the head of the Botanical Department of the Museum, and his accession to the Staff added honour to the institution—in the eyes of all scientific Europe—as well as eminent advantage to the public service. MR. BROWN acted as Keeper until nearly the time of his decease. He died in the year 1858, full of years and of botanical fame.

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The Library of Sir Joseph BANKS comprised the finest collection of books on natural history which had ever been gathered into one whole in England. It was also pre-eminently rich in the transactions, generally, of learned societies in all parts of the world ; and there is a masterly Catalogue of the Collection, by Jonas DRYANDER, which was printed, at Sir Joseph's cost, in the years 1798-1800. That Catalogue, I venture to hope, will, some day, become—with due modification—the precedent for a printed Catalogue of the whole Museum Library—vast as it already is, and vaster as it must needs become before that day shall have arrived.

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THE
BANKSIAN
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The Banksian Herbaria comprise BANKS' own botanical collections in his travels, and those of CLIFFORT, HERMANN, CLAYTON, AUBLET, MILLER, JACQUIER, and LOUREIRO, together with part of those made by TOURNEFORT, the friend and fellow-botanizer of SLOANE, and the author of the *Corollarium*. They also include many valuable plants gathered during those many English Voyages of Discovery which, from time to time, BANKS' example and his liberal encouragement so largely fostered. From the Collections now seen in the Botanical Room of the British Museum not a few of the great works of LINNÆUS, GRONOVIUS, and other famous botanists, derived some of their best materials. These Collections are at present under the zealous and faithful care of Mr. John Joseph BENNETT, long the assistant and the friend of BROWN.

THE
BANKSIAN
HERBARIA.

Among nearly contemporaneous accessions which would well merit some detailed notice, were the space for it available, are a valuable assemblage of Marbles from Persepolis, which had been collected by Sir Gore OUSELEY, and were given to the Museum by the Collector, and a small but

BRIEF
NOTICE OF
SOME OTHER
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choice Collection of Minerals from the Hartz Mountains,
given to the Public by King GEORGE THE FOURTH.
The Persepolitan sculptures were received in the year
1825 ; the Minerals from the Hartzgebirge, in the year
1829.

BOOK THE THIRD.



*LATER AUGMENTORS AND
BENEFACTORS.*

1829—1870.

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VII. RECONSTRUCTORS AND PROJECTORS.

‘THE comprehensive character of the British Museum—the origin of which may be traced to the heterogeneous nature of Sir HANS SLOANE’S bequest—doubtless makes it difficult to provide for the expansion of its various branches, according to their relative demands upon the space and light which can be applied to their accommodation. Any attempt, however, now to diminish that difficulty by segregating any portion, or by scattering in various localities the components of the vast aggregate, would involve a sacrifice of great scientific advantages which are not the less inherent in their union because that union was, in its origin, fortuitous. . . .

‘Some passages of our evidence . . . illustrate the difficulty of drawing a line of separation, for purposes of management and superintendence, between certain Collections. . . . Its occurrence [*i.e.* the occurrence of such a difficulty] indicates strongly the value to Science, of the accidents which have placed in near juxtaposition the Collections of mineralogy [and] of forms of existing and extinct animal and vegetable life. The immediate connexion of all alike with the Library of the Museum is too important to allow us to contemplate its dissolution.’—*Report of the Commissioners appointed to inquire into the Constitution and Management of the British Museum* (1850), p. 36.

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CHAPTER I.

GENERAL VIEW OF THE HISTORY OF THE BRITISH MUSEUM, UNDER THE ADMINIS- TRATION, AS PRINCIPAL-LIBRARIAN, OF JOSEPH PLANTA.

... Perséverance keeps honour bright.
To have done, is to hang
Quite out of fashion, like a rusty mail
In monumental mockery.

Troilus and Cressida.

'Signor, mirate, come 'l tempo vola,
E siccome la vita
Fugge, e la Morte nè sovra le spalle,
Voi siete or qui: pensate alla partita
Che l' alma ignuda e sola
Conven ch' arrive a quel dubbioso calle.'

PETRARCH (*Italia mia*, &c.).

Notices of the Life of Joseph PLANTA, third Principal-Librarian.—Improvements in the Internal Economy of the Museum introduced or recommended by Mr. PLANTA.—His labours for the enlargement of the Collections—and on the Museum Publications and Catalogues.—The Museum Gardens and the Duke of BEDFORD.

HITHERTO these pages have chiefly had to do with the history of the integral parts of the British Museum, and with that of the men by whom these integral parts, taken severally, were first founded or first gathered. We have

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now to glance at the organic history of the whole, after the primary Collections and the early additions to them came, by aggregation, to be combined into the existing national establishment. It may, at best, be only by glances that so wide a subject can (within the limits of this one volume) be looked over, in retrospect. That necessity of being brief suggests a connection of the successive epochs in the story of the Museum, for seventy years, with the lives of the three eminent men who have successively presided over the institution since the beginning of the present century. Those three official lives, I think, will be found to afford succinct divisions or breakings of the subject, as well as to possess a distinctive personal interest of their own. Our introductory chapters will therefore—in relation to the chapters which follow them—be, in part, retrospective, and, in part, prospective.

When Dr. Charles MORTON died (10 February, 1799), Joseph PLANTA was, by the three principal Trustees, appointed to be his successor. The choice soon commended itself to the Public by the introduction of some important improvements into the internal economy of the institution. It is the first librarianship which is distinctively marked as a reforming one. In more than one of his personal qualities Mr. PLANTA was well fitted for such a post as that of Principal Officer of the British Museum. He had been for many years in the service of the Trustees. He had won the respect of Englishmen by his literary attainments. He was qualified, both by his knowledge of foreign languages and by his eminent courtesy of manners, for that salient part of the duties of librarianship which consists in the adequate reception and the genial treatment of strangers.

Joseph PLANTA was of Swiss parentage. He was of a

race and family which had given to Switzerland several worthies who have left a mark in its national history. He was born, on the twenty-first of February, 1744, at Castasegna, where his father was the pastor of a reformed church. The boy left Switzerland before he had completed the second year of his age. He began his education at Utrecht, and continued it, first at the University of Göttingen, and afterwards by foreign travel—whilst yet open to the formative influences of youthful experience upon character—both in France and in Italy. It was thus his fortune to combine what there is of good in the characteristics of the cosmopolite with what is better in those of a patriotic son of the soil. It was Joseph PLANTA's fortune never to live in Switzerland, as a resident, after the days of early infancy, but, for all that, he remained a true Swiss. And one of the acts of his closing years in England was to make a most creditable contribution to Helvetic history.

Andrew PLANTA, father of Joseph, came to London in 1752. He was a man of good parts and of pleasing address. He established himself as pastor of a German congregation, and was also made an Assistant-Librarian in the British Museum. Afterwards, he was chosen to be a Fellow of the Royal Society and a 'reader' to Queen CHARLOTTE. That appointment brought with it, in course of time, a measure of Court influence by which young PLANTA profited. His youthful '*Wanderjahre*' had inspired the growing man with a keen desire to see more of foreign countries. When the father's favour at Court put him in a position to represent at head-quarters the youth's fancy to see life abroad, and to state (as he truthfully could) that neither talent nor industry were lacking in his character, the statement obtained for Joseph PLANTA the secretaryship of legation at Brussels. There, he felt himself

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it has, now and then, been said to do for some other men. It took off the edge of his liking for foreign travel. For it gave him a very happy home. Their union endured for twenty-four years. PLANTA was not a man of the gushing sort. But, to intimates, he would say—in the lonely years; there were to be but few of them—‘She was an angel in spirit and in heart.’ Mrs. PLANTA died in 1821.

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Falkenstein,
Zeitgenossen,
&c., Dritte
Reihe, Bd. II,
pp. 3, seqq.

On the death of Charles MORTON, Mr. PLANTA, as we have seen already, was made Principal Librarian. He found the Museum still in its infancy, although no less than forty-six years had passed since the bequest of Sir Hans SLOANE was made to the British Public, and more than forty years since that Public had entered upon its inheritance. The collections had kept pace with the growth of science only in one or two departments. In others the arrear was enormous. The accessibility was hampered with restrictions. The building was in pressing need of enlargement, gradual as had been the growth of some sections, and glaring as was the deficiency of other sections.

PLANTA put his shoulders to the wheel, and met with support and encouragement from several of the Trustees. But the feeling still ran strongly against any approach to indiscriminate publicity in any department of the Museum. Men did not carry that restrictive view quite so far in 1800, as it had been expressed by Dr. John WARD—an able and good man—in 1760, and earlier; but they still looked with apprehension upon the combined ideas of a crowd of visitors, and irreplaceable treasures of learning and of art. A good many of the men of 1800 possessed, it must in candour be remembered, living recollections of the sights and the deeds of 1780. Residents in Bloomsbury were likely, on that score, to have particularly good

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memories. They had seen with their eyes precious manuscripts, which treasured up the lifelong lore of a MANSFIELD, given by the populace to the flames.

Under the influence of such memories as these, Mr. PLANTA had to propose abolition of restrictions, with a gentle and very gradual hand. He began by improving the practice, without at first greatly altering the rules. By and by he brought, from time to time, before the Trust, suggestions for relaxations in the rules themselves.

IMPROVE-
MENTS IN-
TODUCED,
OR RECOM-
MENDED, BY
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THE
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From the outset he administered the Reading Room itself with much liberality. When he became Principal Librarian the yearly admissions were much under two hundred. In 1816, they had increased to two hundred and ninety-two. In 1820, to five hundred and fifteen. As respects the Department of Antiquities, the students admitted to draw were in 1809 less than twenty; in 1818 two hundred and twenty-three were admitted. In 1814 he recommended the Trustees to make provision for the exhibition every Thursday, 'to persons applying to see them,' the Engravings and Prints;—the persons admitted not exceeding six at any one time, and others being admitted in due succession. He also recommended a somewhat similar system of exhibition for adoption in the Department of Coins and Medals. And the Trustees gave effect to both recommendations. Eventually Mr. PLANTA proposed, for the *general* show Collections of the Museum, a system of entirely free admission at the instant of application, abolishing all the hamper of preliminary forms.

HIS RECOM-
MENDATIONS
FOR THE
ENLARGE-
MENT OF THE
VARIOUS
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TIONS.

It was also, I believe, at Mr. PLANTA's instance, or partly so, that the Trustees applied to Parliament, in 1812, for special grants to enable them to improve the Collection of Printed Books, with reference more particularly to the endeavour to perfect the National Library in the National

History—to that very limited extent to which the monuments and memorials of our history are to be found in print. Virtually, the grants on behalf of the Manuscript Department, not those on behalf of the Printed Book Department, were, in 1812, as they still are in 1870, the grants which mainly tend to make the British Museum what, most obviously, it ought to become, the main storehouse of British History and Archæology, both in literature and in art.

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The magnificent additions made by private donors to every section of the British Museum during the administration of PLANTA, have been sufficiently passed under review in the closing chapters of Book II. Several of them, it has been seen, were the fruits of the public spirit of individual Trustees. Such gifts amply vindicated the wisdom both of Sir HANS SLOANE and of Parliament, when both Founder and Legislature gave to men of exalted position a preference as peculiarly fit, in the judgment of each, for the general guardianship of the Museum.

But private gifts—munificent as they were—left large gaps in the National Collections. It is one of Mr. PLANTA's distinctive merits that his tastes and sympathies embraced the Natural History Department, as well as those literary departments with which, as a man of letters, he had a more direct personal connection. He supported, with his influence, the wise recommendation to Parliament—made in 1810—for the purchase of the GREVILLE Collection of Minerals. He recommended, in 1822, the purchase, from the representatives of the naturalist MONTICELLI, of a like, though minor Collection, which had been formed at Naples. The Cavaliero MONTICELLI's Collection was, in the main, one that had been undertaken in imitation of an earlier assemblage of volcanic products which had been also gathered at

HIS CATHOLICITY OF
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Naples by Sir William HAMILTON, and by the Collector given (as I have already recorded) to the Trustees. In a similar spirit he promoted the acquisitions which were made from time to time, by the instrumentality of Claudius RICH, of Henry SALT, and of several other workers in the fruitful field of Classical, Assyrian, and Egyptian archæological exploration. Both in the literary and scientific departments of the Museum he also gave some special attention to the due continuance and completion of the various collections bestowed on the Public by the munificence of Sir Joseph BANKS.

PLANTA'S
LABOURS ON
THE
USEUM'S
PUBLICATIONS;

Another conspicuous merit belongs to Joseph PLANTA. He supported the Trustees in that wise and large-minded policy which induced them to regard *publication*, as well as accumulation, to be one of the chief duties of their Trust for the Nation. He thought it not enough, for example, to show to groups of Londoners, from time to time, and to occasional foreign visitants, in almost solitary state, the wealth of Nature and of Art in the Museum Collections. He saw it to be no less the duty of the faithful trustees of such treasures to show them to the world at large by the combined labours of the painter, the draughtsman, the engraver, and the printer. It will ever be an honourable distinction—in the briefest record of his Museum labours—that he promoted the publication of the beautiful volumes entitled *Description of the Ancient Marbles in the British Museum*; of the *Catalogue of the Anglo-Gallic Coins*; of the *Mausoleum and Cinerary Urns*; of the *Description of Terra Cottas*; and other like works. The first-named work in particular is an especial honour to the Trustees of the Museum, and to all who were concerned in its production. Beautifully engraved, and ably edited, it made the archæological treasures of the Nation widely known even to such foreigners,

interested in the study of antiquity, as circumstances precluded from ever seeing the marbles themselves. When watching—in the bygone years—the late Henry CORBOULD busy at the work into which he threw so much of his love, as well as of his skill in drawing, I have been tempted, now and then, to envy the craft which, in its results, made our national possessions familiarly known, in the far parts of the world, to students who could never hope to see the wonderful handicraft of the old Greek sculptors, otherwise than as it is reflected and transmitted by the handicraft of the skilled modern draughtsman. CORBOULD had the eye to see artistic beauty and the soul to enjoy it. He was not one of the artists who are artisans, in everything but the name. In the '*Ancient Marbles in the British Museum*,' published under the active encouragement of the 'Trustees and of their Principal Librarians, during a long series of years, CORBOULD, as draughtsman, had just the work for which Nature had pre-eminently fitted him.

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Joseph PLANTA also took his share in the compilation of the Catalogues both of Printed Books and of Manuscripts. In this department, as in the archæological one, he extended the benefits of his zealous labour to the scholar abroad as well as to the scholar at home. What was carefully prepared was liberally *printed* and liberally circulated. PLANTA wrote with his own hand part of the published *Catalogue of the Printed Books*, and much of the *Catalogue of the Cottonian Manuscripts*. To the latter he prefixed a brief life of the Founder, by which I have gladly and thankfully profited in my own more extended labour at the beginning of this volume.

AND, PAR-
TICULARLY,
ON THE CA-
TALOGUES.

One incidental employment which Mr. PLANTA's office entailed upon him—as Principal Librarian—was of a less grateful kind. It merits notice on more than one account,

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BEDFORD.

very trivial as is the incident of Museum history that occasioned it, when looked at intrinsically.

In 1821, the then Duke of BEDFORD (John, ninth Duke) filed in Chancery an injunction against the Trustees to restrain them from building on the garden-ground of the Museum. To build was—at that time—an undoubted injury to the Bloomsburians, and, consequently, a not less undoubted depreciation of the Duke's estate. It is hard, nowadays, to realise to one's fancy what the former Museum gardens were in the olden time. They not only adorned every house that looked over them, but were—in practice, and by the indulgence of the Trustees and officers—a sort of small public park for the refreshment of the vicinity at large. Their neighbourhood made houses more valuable in the market.

Almost seventy years before the filing of the Chancery injunctions of 1820-21, a predecessor of the Duke (John, seventh Duke) had compelled Parliament—and with great reason—to enact that the 'New Road' should be made a broad road; not a narrow lane. He had carried a proviso for the construction of gardens in front of all the houses along the road. Were public property, and public enjoyments, protected by English law with one tenth part of the efficiency with which private property and private enjoyments are protected, that clause in the 'New Road Act' of 1750 would have proved, in our own present day, a measure advantageous to public health. But public easements are unknown, or nearly unknown, to English law. And the Duke's clause has come, in course of time, to teem with public nuisance, instead of public benefit. Englishmen build at the national cost magnificent cathedrals, and then permit railway-jobbers to defile them, at pleasure, with railway 'architecture.' They construct, by dint of large taxation, magnificent

river-embankments, and permit every sort of smoke-belching chimney and eye-killing corrugated-iron-monstrosity to spoil the view. What the old Duke of BEDFORD intended to make a metropolitan improvement, as well as a defence to his own property, has come to be a cause of public detriment,—simply because our legislation, in the year of Grace 1870, affords protection to no kind of public property that is insusceptible, by its nature, of direct valuation in pounds and pence.

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The action of the ninth Duke of BEDFORD was in contrast with that of his predecessor. It was not altogether selfish, since there was an actual abatement of public enjoyment in that step which he was opposing. The Trustees of the British Museum were really compelled to take something from the Public with one hand ;—but, with the other, they gave a tenfold equivalent. Their contention, of course, prevailed against the Duke's opposition.

It may not be intrusive here to mention that it is known that by the present Duke of BEDFORD very generous and liberal furtherance would be given to new schemes of extension for the Museum, were Parliament, on full consideration, to think enlargement at Bloomsbury the right course to be taken in pending matters. But this subject will demand a few words hereafter.

PLANTA's energies seem for several years to have been given, almost exclusively, to his Museum duties, in combination (as was perfectly practicable and befitting, under the then circumstances) with his Exchequer Paymastership. But in the closing years of his Under-Librarianship many months were (not less fitly) given to a worthy literary undertaking. He wrote his *History of the Helvetic Confederacy* towards the end of the last century, and published

CHAPTER II.

INTRODUCTION TO BOOK III (*Continued*):—GROWTH, PROGRESS, AND INTERNAL ECONOMY, OF THE BRITISH MUSEUM, DURING THE PRINCIPAL - LIBRARIANSHIP OF SIR HENRY ELLIS.

'It is expedient that the Trustees should revise the salaries of the Establishment, with the view of ascertaining what increase may be required for the purpose of . . . obtaining the whole time and services of the ablest men, independently of any remuneration from other sources; and that, when such scale of salary shall have been fixed, it shall not be competent to any Officer of the Museum, paid thereunder, to hold any other situation conferring emolument or entailing duties.'

REPORT FROM SELECT COMMITTEE ON BRITISH MUSEUM, 14 July, 1836.

Internal Economy of the Museum at the time of the death of Joseph PLANTA.—The Literary Life and Public Services of Sir Henry ELLIS.—The Candidature of Henry FYNES CLINTON.—Progress of Improvement in certain Departments.—Introduction of Sir Antonio PANIZZI into the Service of the Trustees.—The House of Commons' Committee of 1835-36.—PANIZZI and Henry Francis CARY.—Memoir of CARY.—PANIZZI's Report on the proper Character of a National Library for Britain, made in October, 1837.—His successful labours for Internal Reform.—And his Helpers in the work.—The Literary Life and Public Services of Thomas WATTS.—Sir A. PANIZZI's Special Report to the Trustees of 1845, and what grew thereout.—Progress, during Sir H. ELLIS's term of office, of the several Departments of Natural History and of Antiquities.

WHEN Sir Henry ELLIS was appointed to be the successor of Mr. PLANTA (20th December, 1827), the British Museum was still composed of but four departments, in conformity

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CONDITIONS
OF MUSEUM
ACCESSI-
BILITY AT
COMMENCE-
MENT OF
MR. ELLIS'S
RULE.

with the organization of 1809. It was publicly open on three days in each week, but only during forty weeks of every year. This was a great improvement of the previous arrangements, as we have seen, under MARY and MORTON. But Mr. PLANTA's most conspicuous improvements lay in the (admittedly more important) direction of access to the Medal, Print, and Reading Rooms. To his administration, students in all these departments were much indebted. Sir Henry ELLIS was to witness and to carry out, very efficiently as Principal Librarian, some more extensive modifications of the old system of things; but he, in his turn, was to be quite eclipsed (so to speak) in the character of Museum improver, by his successor in office. And it was, in fact, to the latter that such among the conspicuous improvements of the last twenty years of Sir Henry's official administration as related to the Department of Printed Books—and in no department were the improvements more striking—were pre-eminently due.

Sir Henry ELLIS (who has but so recently departed from amongst us) entered the service of the Trustees, as a temporary assistant in the Library, in the year 1800, having had already three years' experience in Bodley's Library at Oxford. When coming occasionally to London during his employment at Oxford he would see Dr. Charles MORTON, who had helped to organize the Museum almost fifty years before. The *public* life of those two acquaintances spread, conjointly, over a period of a hundred and twenty years.*

* Morton died at eighty-three; Planta, at eighty-four; Ellis, at ninety-two. Morton, as we have seen, was known to Sir Hans Sloane. Sloane was already a noted man in the days of Charles the Second; and he also lived to be ninety-two. The joint lives of Sloane, Morton, and Ellis extended over nearly two hundred and ten years.

Had it never fallen to the lot of Henry ELLIS to render to the Public any service at all, in the way of administering and improving the National Museum, he would still have earned an honourable niche in our literary history. His contributions to literature are, indeed, very unequal in their character. Some of them are fragmentary; some might be thought trivial. But very many of them have sterling value. And his archæological labours, in particular, were zealous and unremitting. He began them in 1798. He had not entirely ceased to add to them in 1868. In the closing year of the eighteenth century he was giving furtherance to the labours on British history of Richard GOUGH. In the sixty-eighth year of the nineteenth century he was still taking an intelligent and critical interest in the large undertakings of Lord ROMILLY and of Mr. DUFFUS HARDY, for affording to future historians the means of basing the reconstruction of our national history upon the one firm foundation of an exhaustive search of our national records.

The fourth Principal Librarian of the British Museum was born at Shoreditch, in London, on the 29th of November, 1777. He was of a Yorkshire family long settled (and still flourishing) at Dewsbury. Henry ELLIS was educated at Merchant Taylors' School, and at St. John's College, Oxford, where he graduated B.C.L. in 1802. His first book (but not, perhaps, his first publication) was the *History of the Parish of St. Leonard, Shoreditch*, printed in 1798. He became F.S.A. in 1800; one of its Secretaries in 1813; and its Director in 1854. To the *Archæologia* he was a contributor for more than fifty years. In 1800, he sent to the first Record Commission a Report on the Historical Manuscripts at St. John's. For the same Commission he wrote, in the year 1813, and the three following years, an *Introduction to Domesday Book*.

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THE
LABOURS IN
LITERATURE
OF SIR H.
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Of this he would speak very modestly in after-days, saying: 'I have worked on *Domesday* for years; but only in making an opening into the mine. Other men will have yet to bring out the metal.' For the second Record Commission he re-edited his *Introduction* and considerably improved it. This was done in 1832; and, to say the least, it brought some very good ore to the surface. When both these Commissions had given way to the better organization recently framed by Lord ROMILLY, he edited, for the series of *Chronicles and Memorials of Great Britain*, the Latin Chronicle of John of Oxenedes, from a MS. belonging to Sir Robert COTTON's Library. When *Oxenedes* was published, just sixty years had passed from the publication of Sir Henry's first Record labour, undertaken at the instance of Lord COLCHESTER.

In the interval, he had had a great opportunity, the first glimpse of which needs must have dilated the heart of so genuine a lover of antiquity. The publication of an improved edition of the *Monasticon Anglicanum* of DODSWORTH and DUGDALE ought to have made a new epoch in British archæology. But the opportunity was lost. In those days, there was no encouragement for such labours at the Treasury; no enlightened promoter of them at the Rolls House. The control of the new *Monasticon* passed into the hands of mere tradesmen. Neither of Mr. ELLIS's co-editors ever buckled to the work. ELLIS himself became simply the servant of the associated publishers, who had no aim whatever beyond turning a golden penny out of the traditional prestige of Sir William DUGDALE's name, and out of the standing advertisement that the *Monasticon* was indubitably one of those books 'which no gentleman's library ought to be without.' Heaps of crude, untranslated, and unelucidated information were thrust into the book, against the

editor's own clear conviction of his duty, and in spite of his remonstrance. 'We must retrench,' was the one answer to all editorial recommendations of real improvement. And meanwhile the publishers were actually netting fair profits from a long list of confiding subscribers. What might well have been a 'broadstone of honour' to English literature became its glaring disgrace.* No one would more gladly have striven for a better result—had the power lain with him—than would Sir Henry ELLIS. As to his nominal co-editors, they did almost nothing, from first to last.

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To far better result did ELLIS labour upon his successive editions of *Hall*, *Hardyng*, *Fabyan*, and *Polydore Vergil*, among our chroniclers, and of BRAND'S *Observations on Popular Antiquities*, of DUGDALE'S *History of Saint Paul's Cathedral*, and of NORDEN'S *Essex*, among the standard illustrations of our archæology and topography. But his most enduring contribution to historical literature is, beyond doubt, his *Original Letters, illustrative of English History*, the publication of which began in 1824, and was completed in 1846. That work alone would suffice to keep his name in honourable memory for a long time to come.

* I do not make this statement without ample warrant. When preparing, under Lord Romilly's direction, my humble contribution of the lost *Liber de Hyda* to the series of *Chronicles and Memorials*, I had competent occasion to test the *Monasticon* of 1813-1824, and found it to teem with errors and oversights in that part of it which I had then to do with. I had had other occasions to study it somewhat closely twenty years before, and with like result. At the interval of twenty years, one could hardly stumble twice upon exceptionally ill-edited portions of such a book. For the new 'Dugdale,' thus truthfully characterised, subscribers paid a hundred and thirty pounds for small paper, two hundred and sixty pounds for large paper, copies; and the number of subscribers was considerable. So much for the 'We must retrench' of the publishers.

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LABOURS OF
SIR H. ELLIS
AT THE
BRITISH
MUSEUM.

STATE OF
THE BRITISH
MUSEUM
STAFF AT
THE TIME OF
THE DEATH
OF MR.
PLANTA.

At the British Museum he had a considerable advantage over his predecessor in the Principal Librarianship. He enjoyed the assistance, almost from the first, of an abler staff, in more than one of the departments, than Mr. PLANTA had commanded during the earlier years of his administration. And an improved order of service had been established before Mr. ELLIS's rule began. In this way appliances lay already under his hand which facilitated the work of progress, when—more especially—a strong demand for improvement came from without, as well as from the action of the Trustees themselves within.

At that date the Department of Printed Books was under the charge of the Rev. Henry Hervey BABER (the eminent editor of the 'Alexandrian MS.' of the Septuagint). He was assisted by Mr. Henry Francis CARY, the translator of DANTE, and also by Mr. WALTER, who had been one of the Librarians of King GEORGE THE THIRD, and who, in 1831, was succeeded by Mr. Antonio PANIZZI. In the Department of MSS. Mr. ELLIS's Assistant-Keeper, the Rev. Josiah FORSHALL, had succeeded to the charge, and the new Keeper had the able assistance of Sir Frederick MADDEN, whose labours for the improvement of his department are well known to scholars. The Antiquities were confided to Mr. Edward HAWKINS; the various Natural History Collections to Messrs. KÖNIG and CHILDREN. The Botanical Department was, as I have shown at the close of the preceding Book, just about to be re-organized (almost to be created) by the transfer of the Collections of Sir Joseph BANKS, and with them of the services of their distinguished Keeper. Taken altogether, such a staff as this was of threefold efficiency to that with which Mr. PLANTA had started at the beginning of the century.

Mr. ELLIS enjoyed an additional advantage from the

great familiarity with the whole service of the Museum which he had acquired during his labours as Secretary from the year 1814. The secretarial duty had been combined with the functions of keepership during thirteen years. Great punctuality, a conspicuous faculty for method and memory, and very courteous manners, were qualifications which are not always, or necessarily, found in union with conspicuous industry. In him they were combined. Nevertheless, he narrowly escaped losing the merited reward of long and assiduous labours. For he had a formidable competitor.

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At this time, a most accomplished scholar, who deservedly possessed large influence, both social and political, had obtained the virtual promise of almost the highest personage in the realm that whenever Mr. PLANTA died he should receive the offer of successorship. Mr. Henry FYNES CLINTON, in those quiet ante-reform days, had been able, for twenty years, to unite the functions of a Member of Parliament with the assiduous pursuits of scholarship in one of its highest forms. Learning had higher charms for him than Politics, and he had no turn for debate, but he had steadily attended the House of Commons while giving to the world his *Fasti Hellenici* and *Fasti Romani*. Six months before Mr. PLANTA's decease, the Archbishop of CANTERBURY had, in effect, promised Mr. FYNES CLINTON that he would nominate him to be Principal Librarian, and the Archbishop well knew that, as far as learning went, such an appointment would be applauded throughout Europe. The Archbishop (Dr. Charles MANNERS SUTTON), did not forget his promise, and his vote carried that of the then Speaker of the House of Commons, who was the Archbishop's son. Their joint communication with the Lord Chancellor procured his assent also. 'We have made,'

THE CANDI-
DATURE OF
MR. H.
FYNES
CLINTON.

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OF THE
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the Archbishop told Mr. FYNES CLINTON, 'your recommendation to the King as strong as possible.' The practice, as the reader will perhaps remember, was that the then Principal Trustees should in all such cases recommend to the Sovereign *two* names, with such observations upon them as to those Trustees might seem appropriate.

*Letters and
Journ. of H.
Fynes
Clinton,
in the Lite-
rary Remains
(1854), pass.*

As Mr. ELLIS was now the senior officer; had had the care successively of two several departments (MSS. and Printed Books); had also served as Secretary, and, in all these employments, had acquitted himself with diligence and credit, there could, of course, be no difficulty as to the name which should be submitted to GEORGE THE FOURTH in company with that of Mr. FYNES CLINTON. Other Trustees interested themselves in supporting, indirectly but efficiently, the claims of one who had served the Board so long. And the King was pleased to prefer the second name which had been placed before him by the Principal Trustees rather than the first. Lord LANSDOWNE received His Majesty's commands to signify to the Archbishop that it was upon the ground of 'long service in the Museum' that the King had made his choice.

Lord Lans-
downe to
Archbishop
of Canter-
bury; 20
December,
1827.

SERVICES
AND
CHARACTER
OF SIR H.
ELLIS.

Those who had (like the writer) opportunity to watch, during most of the succeeding thirty years, the continuance of that service, know that the King's selection was justified. Sir Henry ELLIS was not gifted with any of those salient abilities which dazzle the eyes of men; but he had great power of labour, the strictest integrity of purpose, and a very kind heart. He was ever, to the Trustees, a faithful servant, up to the full measure of his ability. To those who worked under him he was always courteous, considerate, and very often he was generous. He would sometimes expose himself to misconstruction, in order to appease discords. He would at times rather seem wanting in

firmness of will than, by pressing his authority, wound the feelings of well-intentioned but irritable subordinates. No one could receive from him a merited reproof—I speak from personal experience—without perceiving that the duty of giving it was felt to be a painful duty. The Commissioners of 1850 had ample warrant for hinting, in their Report to the Crown—when alluding to certain internal disputes—that the qualities least abounding in Sir Henry ELLIS's composition were those which equip a man 'for such harsher duties of his office, as cannot be accomplished by the aid of conciliatory manners, the index of a benevolent disposition.'

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H. ELLIS.

Report (1850)
p. 82.

A man of that temper will now and then, in his own despite, get forced into a somewhat bitter controversy. One sharp attack on Sir Henry's administration of his Principal-Librarianship had a close connection with discords of an anterior date which had broken out in the Society of Antiquaries. The late Sir Harris NICOLAS would scarcely have criticised, with so much vehemence, what he thought to have been a careless indifference on ELLIS's part to the acquisition for the British Museum of an important body of historical manuscripts, preserved in a chateau in a distant corner of France (and offered to the Trustees in 1829), but for the circumstance that Sir Henry's kindly unwillingness, evinced a little while before, to desert a very weak colleague at Somerset-House had stood in the way of some much-needed reforms in that quarter. Without in the least intending beforehand to represent things unfairly, Sir H. NICOLAS acted under the influence of an unconscious bias or pre-judgment. The Joursanvault story is still worth telling, although it has now become an old story, and one portion of the historical treasures it relates to are now past wishing for, as an English possession.

THE STORY
OF THE MSS.
AT POMARD.

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OF THE
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H. ELLIS.

In the course of the revolutionary convulsions in France, a great body of historical documents had been abstracted from the famous old Castle of Blois. Eventually, as years passed on, they found their way into the country-seat, at Pomard, of the Baron de JOURSANVAULT, and with them were amalgamated an extensive collection of old family papers, many books on genealogy, and some choice illuminated missals.

An English gentleman long resident in France had formed the acquaintance of the Baron de JOURSANVAULT, and in the course of conversation came to hear of the existence of these historical treasures. He also perceived that their owner had little taste for them, or ability to profit by their contents. Sir Thomas Elmsley CROFT probed his French friend on the subject of parting with them. The Baron lent a willing ear, and, to whet his interlocutor's appetite, told him that a great many of the manuscripts related to the history of the English rule in France. Sir Thomas then apprised an English friend, famous for his love of old MSS., of the existence of the hoards, and of the certainty that the Baron who owned them would greatly prefer a few rouleaux of English gold to a whole castle-full of the most precious parchments that ever charmed the longing eyes of a Jonathan OLDBUCK—or a Harris NICOLAS.

Sir Harris, directly he received this piece of news from Paris, passed it on to his friend the late Lord CANTERBURY, then Speaker, who, in turn, communicated the information to Sir H. ELLIS, for the use of the Trustees. ELLIS was sent to France—whither indeed he had, just at that moment, arranged to go, in order to spend part of his holidays in Paris, according to his frequent custom.

He reached Pomard (two hundred and fifty miles from

Paris) in September, 1829, and found a vast body of charters which had formed the archives of the mediæval Earls of Blois, together with many heraldic and genealogical manuscripts chiefly relating to French families. But he found hardly any manuscripts which bore, directly, upon English history or affairs—the immediate object, it must be remembered, of the mission given him by the Trustees.

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H. ELLIS.

Immediately on his return to Paris, Sir Henry wrote thus to the Archbishop of CANTERBURY:—‘The Collection is indeed a most extraordinary one of its kind, and would be a treasure in the stores of the British Museum, or of any other public Collection, though, perhaps, for a reason which will presently appear, some of the Trustees may think a public library of France would be its most appropriate repository. It is placed in two attics of the Chateau, of considerable area—and I should say sixteen feet in height—in cartons (or paste-board boxes), each two feet in length by one in depth and width. Each carton contains some hundreds of charters, at least whenever I examined them, and I made here and there my comparison with the catalogue of from twenty to thirty cartons, all answering to the catalogue and to the successive dates upon the outside of the boxes. . . . In one room there were above a hundred boxes piled up to the ceiling, the lower ones of which, where I could get at them, were full of instruments arranged as I have described. I counted also, in the same room, near a hundred and fifty bundles, all of single articles, partly piled up for want of room, and placed upon the floors. In the second room I counted a hundred and forty-nine cartons piled up like the former, and no ladder in the house to get at them. I did what I could upon a pair of steps made of two thin boards fastened to two other upright boards, but I had not even a safe pair of steps. Many of

SIR HENRY
ELLIS'S
REPORT ON
THE
HISTORICAL
MSS. AT
POISSONNIER.

1829, Sep-
tember.

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the cartons in the second room contained collections of a comparatively recent date, apparently the manuscripts of the Baron's father. Some of these were terriers of lands, others were marked "*Pays Étrangers*," "*Monumens Généalogiques*;" "*Pièces Historiques*;" "*Parlement*;" "*Histoire de l'Eglise*."

'Of the great collection of charters (and it appeared to me to be larger than all the collection of charters at present in the British Museum put together), I am bound to say that I believe them to have formed almost the entire muniments of the Earls of BLOIS, containing whatever related to their concern in the wars of Europe in the middle ages, to their prædial possessions, their granting out of property and privileges, sales, feudal or public acts, quittances of money for military services, letters patents, expenses of household, and every act, material or immaterial, likely to be found in the archives of one of the greatest houses of England.

PAUCITY OF
ENGLISH
DOCUMENTS
IN THE
ARCHIVES
AT POMARD.

'I looked in vain, however, for anything illustrative of English history, except in a single bundle, tied in paper, which seemed unconnected with the cartons, and was not, as far as I could find, in any of the MS. catalogues. This bundle was entitled, in a modern hand, "*Documens relatifs à l'occupation de la France par les Anglais, 1400*." It consists of about one hundred vellum instruments, one or two, or perhaps more, so far in the form of letters that they were official announcements; such as the Duke of ORLEANS in England in 1437, that he had obtained safe conducts for his Chancellor and Premier Écuyer d'écurie. Amongst these are various orders of payment and acquittances for money, and several relate to Charles, Duke of ORLEANS, whilst prisoner in England after the fight of Agincourt. There is a payment to the Earl of SUFFOLK; another to

persons fighting against the English; a payment for the deliverance of the Duc d'Angouleme whilst a prisoner in England in 1412; various orders of John, Duke of Bedford, the Bastard of Salisbury, the Duke of Exeter, &c., to persons in the care of military posts under them; the Duke of Bedford concerning musters; HENRY THE FIFTH's acquittance to the parishioners of certain villages for payments on account of the war; various grants of the same King for services in the wars; a grant to Sir William Bourchier of the estates of the Earl of Eu, dated at Mantes in his seventh year; and an order for a confirmation to be made out of the different grants of the Kings of England and Dukes of Normandy to the House of Lepers at Dieppe.'

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When Sir Henry ELLIS had completed at Pomard that rough examination of the Collection which he thus described on his return to Paris, his first inquiry of the owner was, of course, about price. M. de JOURSANVAULT was embarrassed. To Sir Thomas CROFT he had already said that he hoped to get sixty thousand francs. ELLIS had noticed, as the Baron drove him from Beaune into the court-yard of the old chateau, that its appearance denoted wealth in past rather than in present days, but he could hardly have been prepared for the effect of altered circumstances in turning a gentleman into a chapman. In the evening the anticipated sixty thousand francs had grown into a hundred and ten thousand. Nor was this the only demand. The Duke of WELLINGTON must use his credit at Paris to transform the Baron into a Count (without any stipulation for an entailed estate by way of 'majorat'); and if the task should be beyond the powers even of the conqueror of NAPOLEON, then M. de JOURSANVAULT was to receive, from the English Government, authority to import

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into England five hundred pipes of Beaune wine, grown upon his own estate, free of all customs duties, and for his own profit.

Sir Henry (who with great good sense had already taken precaution that his position at the British Museum should not be known to his host at Pomard, in the hope of precluding any exaggeration of terms) remonstrated against the burden of such a demand, but all entreaty was vain. The Baron was bent on having—in addition to his £4400—either a step in nobility, or, at the least, a handsome remission of customs duty. The Trustees, in the end, declined to treat.

When it came to Sir Harris NICOLAS's knowledge that ELLIS's journey to Pomard was apparently to have no result in the way of bringing historical manuscripts into England, he felt angry as well as disappointed. It was his earnest belief—whether right or wrong—that a valuable occasion had been somewhat trifled with. He told the story,* and

* After stating that Mr. Ellis had made needless proclamation at Paris of the object of his journey, Sir Harris Nicolas proceeds thus:—‘Not contented with this injudicious and useless development of the objects in view, the learned gentleman himself pompously announced wherever he went that he was the “Chief Librarian of the British Museum,” sent specially to treat for these manuscripts, thus making a public affair of what should have been kept private. The effect of this folly may easily be imagined. Long before the “Chief Librarian” reached Pomard, the French newspapers expressed their indignation that historical muniments should be sold to the British Government, inferring that England must be anxious to possess the records in question, when the purchase of them was made an official business.

‘The effect of all this parade upon the owner of the manuscripts was a natural one; he fancied he had erred in his estimate of their value, and that, as they seemed to be objects of national importance to another Government, he resolved to make that Government pay at a much higher rate, for what they manifested such extraordinary anxiety to obtain, than a private individual. On the “Chief Librarian's” arrival at Pomard, he discovered that the Baron could speak little English; and

treasured up the memory, and both the story and the narrator's personal reminiscences of the transaction had their share in bringing about the parliamentary enquiry into the affairs of the British Museum.

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Originally, and immediately, that inquiry was proposed to the House of Commons by Mr. Benjamin HAWES, then M.P. for Lambeth, at the instance of a Mr. John MILLARD, who had been employed, for some years, on an Index of MSS., and whose employment (upon very good grounds) had been discontinued. Sir Harris NICOLAS also brought his influence to bear. Mr. HAWES, personally, had a very earnest intention to benefit the Public by the inquiry. But his own pursuits in life were not such as to have given him the literary qualifications necessary for conducting it. With not less wisdom than modesty, when he had carried his motion for a Select Committee, he waived his claim to its chairmanship. The Committee chose for that office Mr. SOTHERON ESTCOURT. The burden of examination, on

THE PARLIA-
MENTARY
INQUIRY
INTO
MUSEUM
AFFAIRS OF
1835 AND
1836.

the Baron, as he has since asserted, discovered that the "Chief Librarian" could speak less French; hence it was with great difficulty that the latter could understand that the Baron had become so enlightened about his treasures as to expect, not merely double the price he originally asked for them, but as our Government had interfered on the subject, he wished it to advance one step further, by inducing his Most Christian Majesty to raise his Barony into a Comté. Such terms were out of the question; and after spending two or three hours only in examining the Collection, but which required at least as many weeks, the "Chief Librarian" returned to England *re infecta*, and made his report to the Trustees, who refused to purchase the Collection, but offered to buy a few documents, which the owner, of course, declined. Thus, highly valuable documents are lost to the Museum and to the country, in consequence, solely and entirely, of the absurd measures adopted for their acquisition.'—NICOLAS, *Observations on the State of Historical Literature in England*, pp. 78-80. My long and observant acquaintance with Sir H. Nicolas justifies me in adding to this extract—in which there are such obvious exaggerations of statement—that I am convinced he was writing from insufficient and inaccurate information. He was incapable of wilful misstatement.

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 ELLIS.

behalf of the Trustees, was borne—it need not be said how ably—by men of no less mark than Sir Robert Harry INGLIS and the late Earl of DERBY, then Lord Stanley.

One of the best results of the appointment of that Committee of 1835-36 was the opportunity it gave to Mr. BABER and to Mr. PANIZZI of advocating the claims of the National Library to largely increased liberality on the part of Parliament. The latter, in particular, did it with an earnestness, and with a vivacity and felicity of argument and of illustration, which I believe won for him the respect of every person who enjoyed (as I did) the pleasure of listening to his examination. I do not think that anybody in that Committee Room of 1836 thought his arguments a whit the weaker for being expressed by ‘a foreigner.’ But it chanced to be within my knowledge that pressure was put upon Mr. HAWES, as a conspicuous member of the Committee, to induce him to put questions to a certain witness with the view of enabling that witness to attack the Trustees for appointing a foreigner to an important office in the Museum. The ludicrous absurdity of an objection on that score—in relation to a great establishment of Literature and Science—was not, it seems, felt in those days as it would assuredly be felt in the present day. The absurdity did not strike the mind of Mr. HAWES, but, to his great credit, he steadfastly refused to admit of any impeachment in the Committee of a choice which he believed had been most fitly made in all other respects.*

* I was myself present at an interview (in Lambeth), when the most urgent influence was used with Mr. Hawes to induce him to attack Mr. Panizzi's original appointment as an ‘Assistant-Librarian’; and I heard him express a strong approval of it, on the ground of the obvious qualifications and abilities of the individual officer—though himself sharing the opinion that in such appointments Englishmen should have the preference.

It is more than probable that the ability which Mr. PANIZZI had displayed in the Committee Room of the House of Commons, as well as the zeal for our national honour which he had shown himself to possess, had something to do in preparing the way for the promotion which awaited him within a few months after Mr. HAWES' Committee made its final report to the House. But his labours in the Museum itself had certainly given substantial and ample warrant for that promotion—under all the circumstances of the case—as will be seen presently.

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H. ELLIS.

Amongst the duties entrusted to Mr. PANIZZI after his entrance (in 1831) into the service of the Trustees as an extra Assistant-Librarian, was the cataloguing of an extraordinary Collection of Tracts illustrative of the History of the French Revolution. He had laboured on a difficult task with great diligence and with uncommon ability. In 1835, a Committee of Trustees reported, in the highest terms, on the performance of his duties, and concluded their report with a recommendation which, although the general body of Trustees did not act upon it, became the occasion of a very eulogistic minute. Two years afterwards, the office of Keeper of Printed Books became vacant by the resignation of the Reverend Henry Hervey BABER, who had filled it, with great credit, from the year 1802.

MR.
PANIZZI'S
APPOINT-
MENT TO THE
KEEPER-
SHIP OF
PRINTED
BOOKS.

The office of Senior Assistant-Librarian in that Department was then filled by another man of eminent literary distinction, the Reverend Henry Francis CARY, who, as one of the best among the many English translators of DANTE, is not likely to be soon forgotten amongst us. Not a few Englishmen of the generation that is now passing away learnt in his version to love DANTE, before they were able to

C III,
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 CARY
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 LLIS.
 : AND
 RARY
 JURS OF
 BY
 NCIS
 Y.

read him in his proper garb, and learnt too to love Italy, as CARY loved it, for DANTE's sake.

Mr. CARY was the grandson of Mordecai CARY, Bishop of Killaloe, and the son of a Captain in the British Army, who at the time of Henry CARY's birth was quartered at Gibraltar, where the boy was born on the sixth of December, 1772. He was educated at Birmingham and at Christ Church, Oxford. It was in his undergraduate days at Christ Church that he began to translate the *Inferno*, although he did not publish his first volume until he had entered his thirty-third year, and had established himself in 'the great wen' as Reader at Berkeley Chapel (1805). CARY's '*Dante*' soon won its way to fame. Among other blessings it brought about his life-long friendship with COLERIDGE and with the Coleridgean circle. He now became an extensive contributor to the literary periodicals. In 1816, he was made Preacher at the Savoy. In 1825, he offered himself to the Trustees of the British Museum as a candidate for the Keepership of the Department of Antiquities in succession to Taylor COMBE. That office was given, with great propriety, to Mr. Edward HAWKINS, who had assisted Mr. COMBE, and had, in fact, replaced him during his illness. But Mr. CARY had met with encouragement—especially from the Archbishop of CANTERBURY—and kept a bright look-out for new vacancies. In May or June, 1826, he wrote to his father that he had learnt that the office of Assistant-Librarian in the Department of Printed Books was vacant. It had been, he added, held by a most respectable old clergyman of the name of BEAN, and Mr. BEAN was just dead. Within a week or two, Mr. CARY was appointed to be his successor. By a large circle of friends the appointment was hailed as a fitting tribute to a most deserving man of letters.

THE BRITISH MUSEUM UNDER SIR HENRY ELLIS. 545

The homely rooms in the Court-yard of the Museum allotted to the Assistant-Keeper of the Printed Book Department were soon the habitual resort of a cluster of poets. The faces of COLERIDGE, ROGERS, Charles LAMB,* and (during their occasional visits to London) those of SOUTHEY and of WORDSWORTH, became, in those days, very familiar at the gate of old Montagu House. COLERIDGE had always loved CARY, and when the charms of long monologues, delivered at the Grove to devout listeners, withheld him from visits, the correspondence between Highgate and Bloomsbury became so frequent and so voluminous, that he is said to have endeavoured to persuade Sir Francis FREELING that all correspondence to or from the British Museum ought to be officially regarded as 'On His Majesty's Service,' and to be franked, to any weight, accordingly. But those love-enlivened rooms were, in a very few years, to be darkly clouded. CARY lost his wife on the twenty-second of November, 1832, and almost immediately afterwards—so dreadful was the blow to him—'a look of mere childishness, approaching to a suspension of vitality, marked the countenance which had but now beamed with intellect.' Such are the words of his fellow-mourner.

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MUSEUM
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H. ELLIS.

*Life of H. F.
Cary, by his
Son, vol. ii,
p. 198.*

Part of Mr. CARY's duties at the Museum now necessarily fell, for a few months, to be discharged by Mr.

* It was in the old rooms in the Court-yard of Montagu House that Charles Lamb enjoyed the last, I think, of his 'dinings-out.' A few days after his final visit (November, 1834) the hand of Death was already upon him. Cary, before writing the well-known epitaph, wrote some other graceful and touching lines on his old friend. They were occasioned by finding, in a volume lent to Lamb by Cary, Lamb's bookmark, against a page which told of the death of Sydney. They begin thus:—

'So should it be, my gentle friend,
Thy leaf last closed at Sydney's end;
Thou too, like Sydney, wouldst have given
The water, thirsting, and near Heaven.'

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MUSEUM
UNDER SIR
H. ELIOT.
CIRCUM-
STANCES OF
MR.
PANIZZI'S
FIRST AP-
POINTMENT
IN 1831.

PANIZZI, who, in the preceding year, had been appointed next in office to CARY. The circumstances of that appointment have been thus stated by the eminent Prelate who made it :—

*Minutes of
Evidence
taken before
the Select
Committee on
the British
Museum, 28
June, 1836,
p. 433.*

‘Mr. PANIZZI was entirely unknown to me, except by reputation. I understood that he was a civilian who had come from Italy, and that he was a man of great acquirements and talents, peculiarly well suited for the British Museum. That was represented to me by several persons who were not connected with the Museum, and it was strongly pressed by several of the Trustees, who were of opinion that Mr. PANIZZI’s appointment would be very advantageous for the institution. Considering the qualifications of that gentleman, his knowledge of foreign languages, his eminent ability and extensive attainments, I could not doubt the propriety of acceding to their wishes.’

MR.
PANIZZI'S
EARLY
CAREER AND
HIS LABOURS
IN ENGLAND.

When that appointment was made, Mr. PANIZZI had already passed almost ten years in England. The greater part of them had been spent at Liverpool, as a tutor in the language and literature of Italy. Born at Brescello, in the Duchy of Modena, Mr. PANIZZI had been educated at Reggio and at Parma; in the last-named University he had graduated as LL.D. in 1818; and he had practised with distinction as an advocate. Part of his leisure hours had been given to the study of bibliography, and to the acquisition of a library. But he was an ardent aspirant for the liberty of Italy, and, in 1820, narrowly escaped becoming one of its many martyrs. After the unsuccessful rising of that year in Piedmont, he was arrested at Cremona, but escaped from his prison. After his escape he was sentenced to death. He sought a refuge first at Lugano, and afterwards at Geneva. But his ability had made him a marked man. Austrian spies dogged his

steps, and appealed, by turns, to the suspicions and to the fears of the local authorities. Presently it seemed clear that England, alone, would afford, to the dreaded 'conspirator' for Italy, a secure abode. At Liverpool he acquired the friendship successively of Ugo Foscolo, of Roscoe, and of Brougham. In 1828, he received and accepted the offer of the Professorship of Italian Literature in the then London University, now 'University College.' In 1830, he began the publication of his admirable edition of the poems of BOJARDO and ARIOSTO, which was completed in 1834.

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H. ELLIS.

When Mr. BABER announced, in March, 1837, his intention to resign his Keepership, Mr. PANIZZI made no application for the office, but he wrote to the Principal Trustees an expression of his hope that if, in the event, 'any appointment was to take place on account of Mr. BABER's resignation,' his services would be borne in mind.

*Minutes of
Evidence on
the Constitu-
tion and
Management
of the British
Museum, 26
May, 1848,
§ 2764
(Report of
1860, p. 114).*

One of Mr. CARY's earliest steps in the matter was to apply to his friend and fellow-poet, Mr. Samuel ROGERS. ROGERS—to use his own words—was one who had known CARY 'in all weathers.' His earnest friendship induced him to write a letter of recommendation to the three Principal Trustees. After he had sent in his recommendation, a genuine conscientiousness—not the less truly characteristic of the man for all that outward semblance of cynicism which frequently veiled it—prompted him to think the matter over again. It occurred to him to doubt whether he was really serving his old friend CARY by helping to put him in a post for which failing vigour was but too obviously, though gradually, unfitting him. His misgiving increased the more he turned the affair over in his mind. He then wrote three letters (to the Archbishop, Chancellor,

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SEUM
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and Speaker), recalling his recommendation, and stating his reason. With the Speaker, ROGERS also conversed on the subject. Mr. ABERCROMBY asked the poet : ‘What do you know about a Mr. PANIZZI, who stands next to CARY?’ ‘PANIZZI,’ said ROGERS, ‘would serve you very well.’ ‘To tell you the truth,’ rejoined the Speaker, ‘we think that, if Mr. CARY is not appointed, PANIZZI will be the right man.’ At that time, Mr. PANIZZI was not personally known either to the Speaker or to the Chancellor.

I give these details, first, because they became, in after-days, a very vital and influential part of the History of the British Museum. No appointment was ever made during the whole of the hundred and fifteen years which have elapsed betwixt the first organization of the establishment in 1755 and the year in which I write (1870) that has had such large influence upon its growth and its improvement ; and, secondly, because in a published life of the excellent man whose temporary disappointment led to a great public benefit a passage appears which (doubtless very unintentionally, but not the less seriously) misrepresents the matter, and hints, mysteriously, at underhanded influence, as though something had been done in the way of treachery to CARY. ‘The Lord Chancellor and the Speaker,’ writes CARY’s biographer, ‘acting under information, *the source of which was probably known only to them and their informant*, resolved on passing him over, and appointing his subordinate, Mr. PANIZZI, to the vacant place.’

’s of Henry
ancis Cary,
i. ii, p. 200.

These letters and conversations passed in the interval between the announcement that there would be a vacancy in the Museum staff and its actual occurrence. The Keepership became vacant on the twenty-fourth of June. On that day Mr. CARY made his personal application to the Archbishop. The Archbishop told him that objections were

made to his appointment. CARY, immediately after his return, told his brother-officers BABER and PANIZZI what the Archbishop had communicated to him. 'Then,' said Mr. PANIZZI, 'the thing concerns me.' 'Yes,' rejoined CARY, 'certainly it does.' They all knew that applications for the vacant office from outsiders were talked of. Among these were the late Reverend Ernest HAWKINS and the late Reverend Richard GARNETT (who afterwards succeeded to the Assistant-Librarianship). And Mr. PANIZZI then proceeded to say to Mr. CARY: 'You will not, now, object to my asking for the place myself, as there are these objections to you.' CARY replied, 'Not at all.' Instantly, and in CARY's presence, Mr. PANIZZI wrote thus to the Archbishop:—'I hope your Grace will not deem it presumptuous in me to beg respectfully of your Grace and the other Principal Trustees to take my case into consideration, should they think it necessary to depart from the usual system of regular promotion, on appointing Mr. BABER's successor. I venture to say thus much, having been informed by Mr. CARY of the conversation he has had the honour to have with your Grace.' The writer gave his letter into Mr. CARY's hand, received his brother-officer's immediate approval, and had that approval, at a later hour of the day and after a re-perusal of the letter, confirmed.

Within the walls of the Museum, the general feeling was so strongly in favour of Mr. CARY's appointment, despite all objection (and nothing can be more natural than that it should be so—'A fellow-feeling makes us wondrous kind'), that the *public* interest, in having an officer who would use the appointment rather as a working-tool than as a reclining staff, was, for the moment, lost sight of. Sir Henry ELLIS himself, when asked to give a formal testimonial of Mr. PANIZZI's qualifications to be head of the

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Panizzi to the
Archbishop of
Canterbury,
26 June, 1837
(Minutes of
Evidence of
1850).

III.
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R Sir
LLIS.

Printed Book Department, answered: 'If you told me that the Bodleian Librarianship was vacant—or any other outside Librarianship worth your having—you should have my heartiest recommendation. At present, you must excuse me;' or in words to that effect. Edward HAWKINS, then Keeper of the Department of Antiquities, expressed himself (in the hearing of the present writer) to like purpose, when asked what his opinion was on a point which, at the moment, attracted not a little attention in literary circles.*

CARY afterwards—and when it was too late to recall it—regretted his assent to Mr. PANIZZI's application. He applied again to the Archbishop, and obtained something like a promise of support. He wrote several letters to the Lord Chancellor. In one of these he (unconsciously, as it seems) adduced a conclusive argument against his own appointment to the office he sought. He wrote that, as he was informed, the objections of his Lordship and of the Speaker were twofold: the one resting on his age, and the other on the state of his health. He answered the objections in these words:—'My age, it is plain, might rather ask for me that *alleviation of labour* which, *in this as in other public offices, is gained by promotion* to a superior place, than call for a continuance of the same laborious employment.' What must have been a Lord Chancellor's ruminations upon the 'alleviation of labour' which 'a

to the
Chan-
; 18
1837
Times).

* It is necessary that I should state, with precision, the sources of the information conveyed in the text. I rely, chiefly, on three several sources, one of which is publicly accessible. My main knowledge of the matter rests (first) upon the *Minutes of Evidence* taken by Lord Ellesmere's Commission of 1848-1850; (secondly) upon conversations with the late Mr. Edward Hawkins, held in July and August, 1837, not long after the appearance of Mr. Cary's letter in *The Times*; (thirdly) upon a conversation, on the same subject, with which I was honoured by Sir Henry Ellis in 1839.

superior place' brings to a public servant, is a somewhat amusing subject of conjecture.

It was with perfect honesty and integrity of purpose that Mr. CARY adduced medical testimony of his fitness for continued but diminished labours. He would have exerted himself to the best of his ability. But it was a blemish in an excellent man that (under momentary irritation) he twice permitted himself to reproach his competitor and colleague with being 'a foreigner.'

One would fain have hoped that our famous countryman Daniel DEFOE had, a hundred years before, put all reproach and contumely on the score of a man's *not* being a 'true-born Englishman' quite out of Court, in all contentions concerning capabilities of public service. But, of all places in the world, a MUSEUM is the queerest place in which to raise petty questions of nationality. If it be at all worthy of its name, its contents must have come from the four quarters of the globe. Men of every race under Heaven must have worked hard to furnish it. It brings together the plants of Australia; the minerals of Peru; the shells of the far Pacific; the manuscripts which had been painfully compiled or transcribed by twenty generations of labourers in every corner of Europe, as well as in the monasteries of Africa and of the Eastern Desert; and the sculptures and the printed books of every civilised country in the world. And then it is proposed—when arrangements are to be made for turning dead collections into living fountains of knowledge—that the question asked shall be: *not* 'What is your capacity to administer?' but 'Where were you born?' I hope, and I believe, that in later years Mr. CARY regretted that he had permitted a name so deservedly honoured to endorse so poor a sophism.

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PANIZZI'S
APPOINT-
MENT AS
KEEPER OF
THE PRINTED
BOOKS, July,
1837.

Mr. Antonio PANIZZI received his appointment on the fifteenth of July, 1837. If he had worked hard to gain promotion, he worked double tides to vindicate it. In the following month, Mr. CARY resigned his Assistant-Librarianship. He left the Museum with the hearty respect and with the brotherly regrets of all his colleagues, without any exception. Of him, it may very truly be said, he was a man much beloved.

Nor was it otherwise with Mr. BABER. His public services began in old Bodley towards the end of the year 1796, and they were so efficient as to open to him, at the beginning of the present century, a subordinate post in the British Museum, his claims to which he waived the instant that he knew they would stand in the way of ELLIS, his early friend of undergraduate days. He became Assistant-Librarian in 1807; Keeper of Printed Books in 1812. He, too, was a man with no enemies. In literature he won (before he was fifty) an enduring place by his edition of the *Vetus Testamentum Græcum e Codice MS. Alexandrino descriptum*.

Of the amiability of character which distinguished Mr. BABER, not less than did his scholarship, the present writer had more than common experience. It was my fortune to make my first intimate acquaintance (1835) with the affairs of the British Museum in the capacity of a critic on that part of Mr. BABER's discharge of his manifold functions as Keeper which related to the increase of the Library, both by purchase and by the operation of the Copyright Act. I criticised some of his doings, and some of his omissions to do, with youthful presumption, and with that self-confident half-knowledge which often leads a man more astray, practically, than does sheer ignorance. So far from resenting strictures, a few of which may have had some small validity and value, while a good many were certainly plausible but

shallow, he turned the former to profit, and, so far from resenting the latter, repeatedly evinced towards their author acts of courtesy and kindness. It was in his company that I first explored—as we strode from beam to beam of the unfinished flooring—the new Library rooms in which, long afterwards, I was to perform my humble spell of work on the *Catalogue of the Printed Books*; as he had performed his hard-by almost thirty years earlier.

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Mr. BABER survived his retirement from his Keepership (in 1837) no less than thirty-two years. He died, on the twenty-eighth of March, 1869, at his rectory-house at Strettham, in the Isle of Ely, and in his 94th year. He had then been F.R.S. for fifty-three years, and had survived his old friend Sir Henry ELLIS by a few weeks. He served his parishioners in Cambridgeshire, as he had served his country in London, with unremitting zeal and punctual assiduity.

One of Mr. PANIZZI's earliest employments in his new office of 1837 was to make arrangements for the formidable task of transferring the whole mass of the old Library from Montagu House to the new Building, but he also did something immediately towards preparing the way for that systematic enlargement of the Collection of Printed Books which he had formerly and so earnestly pressed on the attention, not merely of the Select Committee of the House of Commons in 1835-36, but of every Statesman and Parliament-man whose ear he could gain, whether (in his interlocutor's opinion) in season or out of season. To use the expression of the man who, at a later date, mainly helped him in that task, Mr. PANIZZI's leading thought, in regard to Public Libraries, was that Paris must be surpassed. In common with others of us who, like himself, had been examined before Mr. HAWES' Committee on that subject, he had brought into

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salient relief some points of superiority which foreign countries possessed over Britain, but the ruling motive of the unsavoury comparison was British improvement, not, most assuredly, British discredit.

THE
LITERARY
CAREER AND
THE PUBLIC
SERVICES OF
THOMAS
WATTS.

In the formidable business of the transfer of the bulk of the National Library, Mr. PANIZZI received his best help from a man now just lost to us, but whose memory will surely survive. Exactly six months after his own appointment to the headship of his Department, he introduced into the permanent service of the Trustees Mr. Thomas WATTS. The readers of such a volume as this will not, I imagine, think it to be a digression if I here make some humble attempt to record what was achieved by my old acquaintance—an acquaintance of almost one and thirty years' standing—both in his varied literary labours and in his long and fruitful service at the Museum.

Thomas WATTS was born in London in the year 1811. He was educated at a private school in London, where he was very early noted for the possession of three several qualities, one or other of which is found, in a marked degree, in thousands of men and in tens of thousands of precocious boys, but the union of all of which, whether in child or in man, is rare indeed. Young WATTS evinced both an astonishing capacity for acquiring languages—the most far remote from his native speech—and an unusual readiness at English composition. He had also a knack for turning off very neat little speeches and recitations. Before he was fifteen, he could give good entertainment at a breaking-up or a 'speech-day.' Before he was twenty, he had gained his footing as a contributor to periodical literature.*

* I believe that his earliest contribution consisted of some articles entitled 'Notes of a Reader,' published in 1830, in a periodical (long since defunct) called *The Spirit of Literature*. These were written and

In the autumn of the year 1835, Mr. WATTS' attention was attracted to the publication of the *Minutes of Evidence taken before the Select Committee on the British Museum*, the first portion of which had been ordered to be printed, by the House of Commons, in the preceding August. He read the evidence with great interest, and ere long he wrote (in 1836 and 1837) some valuable comments upon it, which embodied several suggestions for the improvement of the Museum service, and for making it increasingly accessible to the Public. More than two or three of the suggestions so offered, he lived to carry out—long afterwards, by his own exertions, and with the cordial approval of his superior officer, Mr. PANIZZU—into practice, after he had himself entered into the service of the Trustees as an Assistant in the Printed Book Department.

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WATTS'
EARLY
INTEREST IN
THE IM-
PROVEMENT
OF THE
BRITISH
MUSEUM.

But he chose a very unfortunate medium for his useful communications of 1836 and 1837. He printed them in the columns of the '*Mechanics' Magazine*,' where, for practical purposes, they were almost buried. Of this fact I am able to give a small illustrative and personal instance. Possibly, it may be thought to have some little biographical value, as a trait of his character.

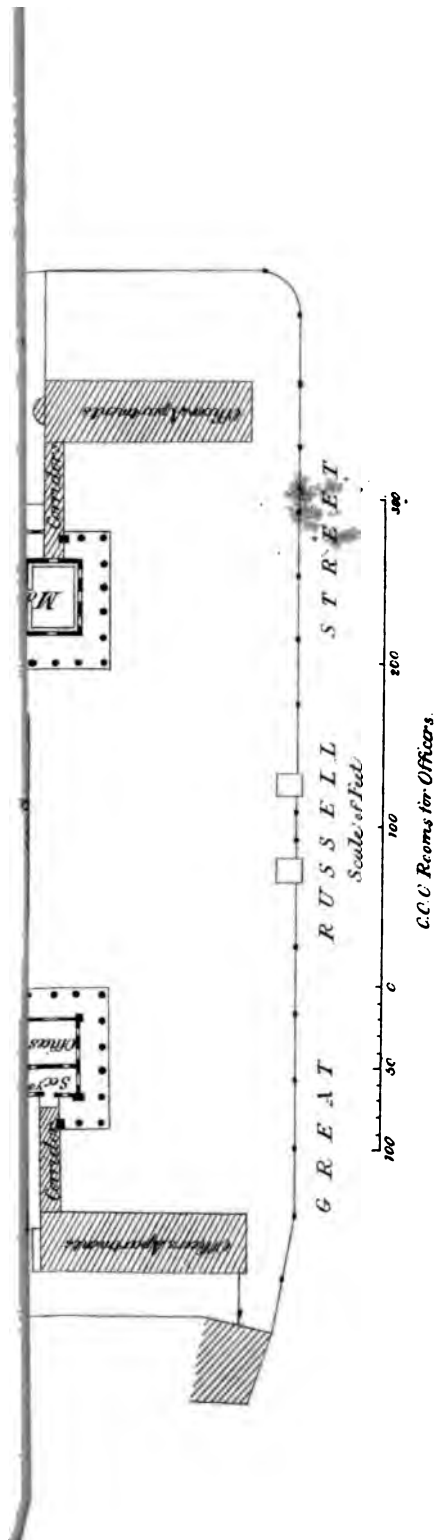
In both of the years above named Mr. WATTS did the present writer the honour to make some remarks on his humble labours for the improvement of the Museum in 1835 and 1836. Mr. WATTS' remarks were very complimentary and kind in their expression. But I never saw or heard of them, until this year, 1870, after their writer had passed from the knowledge of the many acquaintances and friends who, in common with myself, much esteemed him, and who will ever honour his memory.

printed long before Mr. Watts became a correspondent of the *Mechanics' Magazine*, as mentioned in the text.

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 UNDER SIR
 J. ELLIS.

One of the communications which my late friend published in that '*Mechanics' Magazine*' contained two suggestions—made contingently, and by way of alternative plans—for the enlargement of the Museum buildings. Nearly eleven years afterwards (August, 1847), I unconsciously repeated those very suggestions, amongst many others, in a pamphlet, entitled *Public Libraries in London and Paris*. I was in complete ignorance that my suggestions of 1847 were otherwise than entirely original. I thought them wholly my own. Of the print which accompanied my pamphlet I give the reader an exact fac-simile, errors included, on the opposite plate. The print embodied very nearly the same thoughts, on the enlargement of the library, which had been expressed, so long before, in the pages of the '*Mechanics' Magazine*.' The first presented copy of that pamphlet and print was given to my friend WATTS. I was then absent, far from London, and I had presently the pleasure of receiving from him a long letter, containing some criticisms and remarks on my publication. But such was his modest reticence about his own prior performance, that the letter contained no word or hint concerning the anticipation of my alternative suggestions for the enlargement of the Library in his prior publication. And, in the long interval between 1837 and 1847, I suppose we had conversed about the improvement of the Museum, and about its buildings, actual and prospective, some thirty or forty times, but (as I have said) those valuable and thoughtful articles of his, printed in 1836-7—and making complimentary mention of my own labours, and of my evidence given before Mr. HAWES' Committee—never came within my knowledge. No part of their contents was even mentioned to me. I saw them, for the first time, in January, 1870. Very few men—within my range of acquaintance

BRITISH MUSEUM
MONTAGUE PLACE



SUGGESTIONS, MADE IN 1847.
FOR THE ENLARGEMENT OF THE LIBRARY OF THE
— BRITISH MUSEUM —
BEING THE FAC-SIMILE OF A PLAN INSERTED IN A PAMPHLET (WRITTEN IN 1846)
— ENTITLED —
PUBLIC LIBRARIES IN LONDON AND PARIS.



like to talk of their performances, as was
 was WATTS. To this day, very much of
 Public is scarcely known even by those
 (other) enjoyed the pleasure, and the
 dship. He was one of the men who
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 OF THE
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WATTS entered the Museum, the imme-
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 cross his attention. In common with
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 have just now referred—amounted
 He did not talk very much about
 upied, not only his waking thoughts,

WATTS'
 LABOURS
 FOR THE
 AUGMENTA-
 TION OF THE
 BRITISH
 MUSEUM
 LIBRARY.

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1837 he could hardly foresee that
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 nted him, or who had promoted
 ie crime of preferring 'a foreigner'
 National Museum, would be based
 eglect of English Literature. 'An
 l those profound logicians, 'must,
 ly, swamp the Library with Italian
 ing it.' But, strange as it may have
 that calibre, this particular Italian
 y a scholar—a ripe and good one—



—had so much dislike to talk of their performances, as was manifested by Thomas WATTS. To this day, very much of what he did for the Public is scarcely known even by those who (at one time or other) enjoyed the pleasure, and the honour, of his friendship. He was one of the men who ‘did good by stealth,’ and would have almost blushed to find it fame.

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H. ELLIS.

When Thomas WATTS entered the Museum, the immediate task entrusted to him, onerous as it was, did not (for any long time) engross his attention. In common with Mr. PANIZZI, his desire to increase the Library, and to make London surpass Paris—‘*Paris must be surpassed*,’ are the words which close the best of those articles, printed in 1837, to which I have just now referred—amounted to a positive passion. He did not talk very much about it; but I fancy it occupied, not only his waking thoughts, but his very dreams.

WATTS’
LABOURS
FOR THE
AUGMENTA-
TION OF THE
BRITISH
MUSEUM
LIBRARY.

Mr. PANIZZI had not been at the head of his Department many weeks before he began a Special Report to the Trustees, recommending a systematic increase of the Collection of Printed Books.

In the autumn of 1837 he could hardly foresee that one of the attacks to be made, in the after-years, upon those who had appointed him, or who had promoted his appointment, for the crime of preferring ‘a foreigner’ to a high post in our National Museum, would be based upon the foreigner’s neglect of English Literature. ‘An Italian Librarian,’ said those profound logicians, ‘must, naturally and necessarily, swamp the Library with Italian books. He can’t help doing it.’ But, strange as it may have seemed to objectors of that calibre, this particular Italian happened to be, not only a scholar—a ripe and good one—

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OF THE
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H. ELLIS.
SIR A.
PANIZZI'S
REPORT, IN
OCTOBER,
1837, ON THE
PROPER
CHARACTER-
ISTICS OF A
NATIONAL
LIBRARY FOR
GREAT
BRITAIN.

but a man of wide sympathies, and of catholic tastes literature. He was able himself to enjoy SHAKESPEARE not less thoroughly than he was able, by his critical acumen to increase other men's enjoyment of ARIOSTO and of DANT

In October, 1837, he wrote thus :—' With respect to the purchase of books, Mr. PANIZZI begs to lay before the Trustees the general principles by which he will be guided if not otherwise directed, in endeavouring to answer the expectations and wishes of the Trustees and of the Public in this respect. First, the attention of the Keeper of the emphatically British Library ought to be directed, more particularly, to British works, and to works relating to the British Empire ; its religious, political, and literary, as well as scientific history ; its laws, institutions, description, commerce, arts, &c. The rarer and more expensive a work of this description is, the more indefatigable* efforts ought to be made to secure it for the Library. Secondly, the old and rare, as well as the critical, editions of ancient Classics ought never to be sought for in vain in this Collection. No good comments, as also the best translations into modern languages, to be wanting. Thirdly, with respect to foreign literature, arts, and sciences, the Library ought to possess the best editions of standard works for critical purposes or for use. The Public have, moreover, a right to find, in their National Library, heavy as well as expensive foreign works, such as *Literary Journals* ; *Transactions of Societies* ; large Collections, historical or otherwise ; complete series of Newspapers ; Collections of Laws, and their best interpreters.' We have, in this brief passage, the germ

* In *Minutes of Evidence* (page 596) printed erroneously ' reasonable. To the brief extract, for which alone I can here afford space, were appended, in the original Report, many pertinent amplifications and illustrations. Some of these are given in the *Minutes of Evidence* above referred to.

of the admirable Report on the National Library, written on a far more extended scale, which was afterwards laid before the Government, and, ultimately, before Parliament.

If this Report failed to lead, immediately (or, indeed, for a long time to come), to the increased means of acquisition on which its writer's mind was so much bent, the fault did not lie in the Trustees. It lay with the House of Commons, and with the Chancellor of the Exchequer.

It is hard to realise, in 1870, how entirely the effort for an adequate improvement of the British Museum was an uphill task. Trustees like the late Lord DERBY and the late Sir R. H. INGLIS were earnestly desirous to carry out such recommendations as those of Mr. PANIZZI, but the employment of urging them on the Ministry was an ungrateful one. In those days of reforming-activity, although, in 1837, the average radicals in 'the House' were not quite such devout believers in the faith that a general overturn was the only road to a general millenium as they had been in 1832, they were willing enough to listen to attacks upon the managers of any public institution (no matter how crude were the views of the assailants, or how lopsided their information), but they were not half so ready to open the public purse-strings, in order to enable impugned managers or trustees to improve the institution entrusted to them upon a worthy scale.

Three months after writing his Report of 1837, Mr. PANIZZI was enabled to procure the official assistance of Mr. WATTS. The appointment strengthened his hands, by giving to a man of extraordinary powers for organization and government, the services of a man not less extraordinary for his powers of accumulating and assimilating detail. What each man characteristically possessed, was just the right supplement to the special

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THE IM-
PEDIMENTS
IN THE WAY
OF IMPROVE-
MENT.

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H. ELLIS.

See hereafter,
Chap. V.

faculties of the other. But even such a happy union of personal qualities would have failed to carry into effect the large aspirations for the improvement of the Museum which both men, severally and independently, had cherished (during many years), but for one other circumstance. This was a merely incidental—one might say a fortuitous—circumstance; but it proved very influential upon the fortunes of the British Museum in the course of the years to come. When Mr. PANIZZI began to be known in London society—at first, very much by the instrumentality of the late Mr. Thomas GRENVILLE, who, at an early period, had become warmly attached to him—his acquaintance was eagerly cultivated. In this way he obtained opportunities to preach his doctrine of increased public support for our great national and educational institutions (his advocacy was not limited within the four walls of the Museum) in the ears of very valuable and powerful listeners. It was thought, now and then, that he preached on that topic out of season as well as in season. But the issue amply vindicated the zeal which prompted him to make the pleasures of social intercourse subserve the performance of a public trust. Few men, I imagine—holding the unostentatious post of a librarianship—ever possessed so many social opportunities of the kind here referred to, as were possessed by Mr. PANIZZI. And even those listeners who may have thought him over-pertinacious, sometimes, in pressing his convictions, must needs have carried away with them the assurance that one public servant, at all events, did not regard his duties as ‘irksome.’ They must have seen that this man’s heart was in his official work.

So was it also in the instance of Mr. PANIZZI’s right-hand man within the Museum itself. Thomas WATTS was not gifted with powers of persuasive argument. His

address and manners did no sort of justice to the intrinsic qualities, or to the true heart, of the man himself. To strangers, they often gave a most inaccurate idea of his faculties and character. Under the outward guise of a blunt-spoken farmer, there dwelt, not only high scholarship, but a lofty sense—it would not be too strong to say a passionate sense—of public duty. He had none of the persuasive gifts of vivid talk. But he could preach forcibly, by example. When he had made some way with the first task which was assigned him, that of superintending the removal of the Library, and its due ordering—in some of the details of which he was ably assisted, almost from the outset, by Mr. George BULLEN (who, in January, 1838, was first specially employed to retranscribe the press-marks or symbols of the books, as they stood in old Montagu House, into the new equivalents necessitated by their altered position in the new Library, in which labour he was, in the April following, assisted by Mr. N. W. SIMONS)—and had solved, by assiduous effort and self-denying labour, some of the many difficulties which stood in the way of effecting that removal without impeding, to any serious degree, the service of the Public Reading Room, he turned his attention, at Mr. PANIZZII's instance, to the—to him—far more grateful task of preparing lists of foreign books for addition to the Library. For this task he evinced special qualities and attainments which, I believe, were never surpassed, by any librarian in the world; not even by an AUDIFFREDI, a VAN-PRAET, or a MAGLIABECHI.

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OF THE
MUSEUM
UNDER SIR
H. ELLIS.

Mr. WATTS' earliest schoolfellows had marvelled at his faculty for acquiring with great rapidity such a degree of familiarity with foreign tongues, as gave him an amply sufficient master-key to their several literatures. When

LINGUISTIC
ATTAIN-
MENTS OF
THOMAS
WATTS.

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H. ELLIS.

yet very young, he showed a scholarly appreciation of the right methods of setting to work. He studied languages in groups—giving his whole mind to one group at a time, and then passing to another. At an age when many men (far from being blockheads) are painfully striving after a literary command of their mother-tongue, young WATTS had showed himself to be master of two several clusters of the great Indo-European family, and to have a very respectable acquaintance with a third. When, as a youthful volunteer at the Museum, he was fulfilling a request made to him by Mr. BABER, that he would catalogue the Collection of Icelandic books given to the Public, half a century before, by Sir Joseph BANKS, and also another parcel of Russian books, which had been bought at his own recommendation, the reading of Chinese literature was the labour of his hours of private study, and the reading of Polish literature was the recreation of his hours of leisure.

What the feelings of an ambitious student of that strain would be when officially instructed by his superior to take under his sole (or almost sole) charge the duty of examining the Museum Catalogues, and of obtaining from all parts of Europe and Asia, and from many parts of America, other catalogues of every kind, in order to ascertain the deficiencies of the Library, and to supply them, the reader can fancy. The new assistant luxuriated in his office. Many of his suggestions were periodically and earnestly supported with the Trustees by Mr. PANIZZI. His labours were appreciated and often (to my personal knowledge) warmly applauded by his superior officer.

HIS LISTS OF
MUSEUM
DESIDE-
RATA.

He began with making lists of Russian books that were *desiderata* in the Museum Library; then of Hungarian; then of Dutch; then of French, Italian, Spanish, and Portuguese; then of Chinese; then of Welsh; then of the

rapidly growing, but theretofore (at the Museum) much neglected, literature of the Americas and the Indies.

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MUSEUM
UNDER SIR
H. ELLIS.

I used, now and then, to watch him at his work, and to think that no man could possibly be employed more entirely to his liking. Long after I ceased to enjoy any opportunity of talking with him about his employment, I used occasionally to hear that similar tasks occupied, not infrequently, the hours of evening leisure as well as the hours of official duty. Some who knew him more intimately than—of late years—it was my privilege to know him, believe that his early death was in part (humanly speaking) due to his passion for poring over catalogues and other records of far-off literatures when worn-out nature needed to be refreshed, and to be recreatively interested in quite other occupations.

During the last twenty years alone (1850-1869 inclusive) he cannot have marked and recommended for purchase less than a hundred and fifty thousand foreign works, and in order to their selection he must needs have examined almost a million of book-titles, in at least eighteen different languages.

When little more than half that last-named term of years had expired he was able to write—in a Report which he addressed to Mr. PANIZZI in February, 1861—that the common object of Keeper and Assistant-Keeper had been, during almost a quarter of a century, to 'bring together from all quarters the useful, the elegant, and the curious literature of every language; to unite with the best English Library in England, or the world, the best Russian Library out of Russia, the best German out of Germany, the best Spanish out of Spain, and so with every language from Italian to Icelandic, from Polish to Portuguese. In five of the languages in which it now claims this species of supremacy, in Russian, Polish, Hungarian, Danish, and Swedish, I

Mr. WATTS' death, there occurs the rough jotting of a thought which is very apposite to our human and natural reflections upon such an early removal from the scene of labour as that just referred to. When somebody spoke to BACON of the death, in the midst of duty and of mental vigour, of some good worker or other in the vineyard of this world, almost three centuries ago, he made the following entry in his private note-book :—' Princes, when in jousts, triumphs, or games of victory, men deserve crowns for their performance, do not crown them below, where the deeds are performed, but call them up. So doth God by death.'

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MUSEUM
UNDER SIR
H. ELLIS.

Lord Bacon's
Note-Book
(MS. ADDIT.
B. M.).

But these several branches of public duty, onerous as they were, were far from exhausting Mr. WATTS' mental activity, either within the Museum walls or outside of them. He was a frequent contributor to periodical literature. To his pen the *Quarterly Review* was indebted for an excellent article on the *History of Cyclopædias*; the *Athenæum*, for a long series of papers on various topics of literary history and of current literature, extending over many years; the various Cyclopædias and Biographical Dictionaries successively edited by Mr. Charles KNIGHT, for a long series of valuable notices, embracing the Language and Literature of Hungary; those of Wales; and more than a hundred and thirty brief biographical memoirs, distinguished alike for careful research and for clear and vigorous expression. These biographies relate, for the most part, to foreign men of letters. To the pages of the *Transactions of the Philological Society* he was a frequent contributor. His Memoir on Hungarian Literature, first read to that Society, procured him the distinction of a corresponding-membership of the Hungarian Academy, and the distinction was en-

OTHER
LITERARY
LABOURS OF
THOMAS
WATTS.

speak with some sympathy on this point, since it was as a temporary assistant in the preparation of this formidable and keenly-criticised Catalogue, that the present writer entered the service of the Trustees, in February, 1839.

That some objections to the plan adopted in 1839 are well-grounded I entirely believe. But the important point in this matter, for our present purpose, is, not that the plan preferred was unobjectionable, but that the utmost effort was used, at the time and under the circumstances of the time, to prepare such a Catalogue as should meet the fair requirements both of the Trustees and of the Readers. It is within my recollection that, to effect this, Mr. PANIZZI laboured, personally as well as in the way of superintendence and direction, as it has not often happened to me, in my time, to see men labour for the Public. Assuredly to him promotion brought no lessening of toil in any form.

In shaping the plan of the General Catalogue of 1839-1870 (for it is, at this moment of writing, still in active progress), the course taken was this :—A sort of committee of five persons was formed, each of whom severally was to prepare, in rough draft, rules for the compilation of the projected work, illustrated by copious examples. It was to be entirely new, and to embrace every book contained in the Library up to the close of the year 1838. The draft rules were then freely discussed in joint committee, and wherever differences of opinion failed to be reconciled upon conference, the majority of votes determined the question. Such was Mr. PANIZZI's anxiety to prepare the best Catalogue for the Readers that was practicable, that he never insisted, authoritatively, on his own view of any point whatever, which might be in contention amongst us, when he stood in a minority. On all such points, he voted upon

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 OF THE
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 UNDER SIR
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OBJECTIONS
 TO THE
 PLAN OF THE
 MUSEUM
 PRINTED
 BOOK
 CATALOGUE
 (1839-1869).

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an exact equality with his assistants. The rules that were most called into question (before the Commissioners of 1848-1850) had been severally discussed and determined in this fair and simple way. Beyond all doubt, some of the rules might now be largely amended in the light of subsequent experience. But, when adopted, they seemed to *all* of us the best that were practicable under all the then circumstances.

The committee thus formed consisted of Mr. PANIZZI himself, of Mr. Thomas WATTS, of Mr. John Winter JONES (now Principal-Librarian), of Mr. John Humffreys PARRY (now Mr. Serjeant PARRY), and of the writer of this volume. The labour was much more arduous than the average run of readers in a Public Library have any adequate conception of. It occupied several months. It was pushed with such energy and industry, that many a time, after we had all five worked together, till the light of the spring days of 1839 failed us, we adjourned to work on—with the help of a sandwich and a glass of Burgundy—in Mr. PANIZZI's private apartment above the old gate in the Court-yard. If the result of our joint labours had been printed in the ordinary form of books, it would have made a substantial octavo volume. The code has, no doubt, many faults and oversights, but, be they what they may, it was a vast improvement upon former doings in that direction; and not a little of it has been turned to account, of late years, in the Public Libraries of France, of Germany, and of America.

See Mr.
Panizzi's
evidence
before the
Commission-
ers of 1848-9.

In the labours of this little house-committee my late friend took a very large share. To Mr. PANIZZI, and to him, all their colleagues in the task of 1839 will readily admit that the chief merit of what is good, and the smallest part of the demerit of what may have been injudicious, in the *Rules for the Compilation of the Catalogue of Printed*

Books (now before me) is incontestably due. My own experience in such matters, in the spring of 1839, was small indeed. That of my friend PARRY was even less. Mr. Winter JONES possessed, already, the advantage of a thorough familiarity with the Library about to be catalogued, and also an extensive and thorough general knowledge of books. Of Mr. PANIZZII's qualifications and attainments, for such a labour, it would be supererogatory and idle to say a word more, except that he had already—and single-handed—made so good a Catalogue of the fine Library of the Royal Society that the meddling of half-a-dozen 'revisers' failed to spoil it. But there is no impropriety in saying of Mr. WATTS, that he so delighted in the labour in hand as to make it seem, to those who worked with him, that he looked upon it in the light of a pleasant recreation rather than in the light of a dry task.

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H. ELLIS.

But whatever the ultimate differences of opinion, amongst those concerned in such a matter, about the merits of the Museum Catalogue, begun in 1839, there was no difference at all, either in the House or out of it, as to the conspicuous merits of his performance of every subsequent duty. His stores of knowledge were put, with the utmost readiness, at the service of all sorts of readers; and he was not less admirable in the discharge of his office of Superintendent of the Reading Room than afterwards in the more prominent office of Keeper of Printed Books—which he held little more than three years.

When Sir Henry ELLIS retired, in 1856, from the office of Principal-Librarian, the Collection of Printed Books—which he had found, on his accession to that office, extending to less than one hundred and fifty thousand volumes—exceeded five hundred and twenty thousand volumes.

570 LATER AUGMENTORS AND BENEFACTORS.

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H. ELLIS.

The annual number of Readers admitted had increased from about seven hundred and fifty to nearly thousand.

The one step which did more than aught else to promote this improvement was the systematic survey of the existing condition of the Printed Library, in all the departments of knowledge, which Mr. PANIZZI set on in 1843, and embodied in a Memoir addressed to Trustees, on the first of January, 1845.

MR.
PANIZZI'S
MEMOIR ON
THE COLLECTION
OF
PRINTED
BOOKS, 1845.

The principle on which this Memoir was compiled lay in the careful comparison of the Museum Catalogues with the best special bibliographies, and with the Catalogues of other Libraries. In Jurisprudence, for example, the national collection was tested by the *Bibliotheca Juridica* of LIPENIUS, SENCKENBERG, and MADAHN; by the list of books inserted in DUPIN's edition of CAMUS' *Lettres la profession d'Avocat*, and by the *Bibliothèque diplomatique choisie* of MARTENS. In Political Economy, by BLANCHET's list given in the *Histoire de l'Economie politique en Europe*. The Mathematical section of the Library was compared with ROGG's *Handbuch der mathematischen Literatur*. In British History, the *Bibliotheca Grenvilliana*, and the *Catalogue of the Library of the Writers to the Signet*, were examined, for those sections of the subject to which they were more particularly applicable, and so on in other departments. The facts thus elicited were striking. It was shown that much had been done since 1836 to augment almost every section of the Library; but that deficiencies were still of the most conspicuous sort. In short, the statement abundantly established the truth of the proposition that 'the Collection of Printed Books in the British Museum is not nearly so complete and perfect as the National Library of Great Britain ought to be. . .

and it then proceeded to discuss the further question : ‘ By what means can the collection be brought with all proper despatch to a state of as much completeness and perfection as is attainable in such matters, and as the public service may require ?’

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H. ELLIS.

It was shown that no reliance could be placed upon donations, for the filling up those gaps in the Library which were the special subject of the Memoir. Rare and precious books might thus come, but not the widely miscellaneous assemblage still needed. As to special grants for the acquisition of entire collections, not one of ten such collections, it was thought, would, under existing circumstances, be suitable for the Museum. The Copyright-tax has no bearing, however rigidly enforced, save on current British Literature. There remained, therefore, but one adequate resource, that of annual Parliamentary grants, unfettered by restrictions as to their application, and capable of being depended upon for a considerable number of years to come. Purchases might thus be organized in all parts of the world with foresight, system, and continuity. In the letter addressed by the Trustees to the Treasury, it was stated that, ‘ for filling up the chasms which are so much to be regretted, and some of which are distinctly set forth in the annexed document, the Trustees think that a sum of not less than ten thousand a year will be required for the next ten years,’ in addition to the usual five thousand a year for the ordinary acquisitions of the Library.

The Lords of the Treasury were not willing to recommend to Parliament a larger annual grant than ten thousand pounds, ‘ for the purchase of books of all descriptions,’ but so far they were disposed to proceed, ‘ for some years to come ;’ and they strongly inculcated upon the Trustees ‘ the necessity, during the continuance of such

Treasury
Minutes,
1846.

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H. ELLIS.

grants, of postponing additions to the other collections under their charge, which, however desirable in themselves, are of subordinate importance to that of completing the Library.'

MANU-
SCRIPTS
ADDED IN
THE YEARS
1849, 1850.

In 1843, an important series of modern Historical MSS., relating more especially to the South of Europe, was purchased from the RANUZZI family of Bologna. The papers of the Brothers Laurence HYDE, Earl of Rochester, and Henry HYDE, Earl of Clarendon, were also secured. Additions, too, of considerable interest, were made to the theological and classical sections of the MS. Department, by the purchase of many vellum MSS., ranging from the eleventh to the fifteenth centuries. In 1849, the most important acquisitions related to our British History. About three hundred documents illustrative of the English Wars in France (1418 to 1450), nearly a hundred autograph letters of WILLIAM III, and an extensive series of transcripts from the archives at the Hague, were thus gathered for the future historian. In 1850, a curious series of Stamm-bücker, three hundred and twenty in number, and in date extending from 1554 to 1785, was obtained by purchase. These Albums, collectively, contained more than twenty-seven thousand autographs of persons more or less eminent in the various departments of human activity. Amongst them is the signature of MILTON. The acquisitions of 1851 included some Biblical MSS. of great curiosity; an extensive series of autograph letters (chiefly from the Donnadieu Collection), and a large number of papers relating to the affairs of the English Mint.

In the year last named Sir Frederick MADDEN thus summed up the accessions to his Department since the year 1836:

Volumes of Manuscripts	9051
Rolls of Maps, Pedigrees, &c.	668
Manuscripts on Reed, Bark, or other material .	136
Charters and Rolls	6750
Papyri	42
Seals	442

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TABULAR
VIEW OF THE
ACCESSIONS
TO THE MSS.
DEPART-
MENT FROM
1836-1851.

And he adds :—‘ If money had been forthcoming, the number of manuscripts acquired during the last fifteen years might have been more than doubled. The collections that have passed into other hands, namely, Sir Robert CHAMBERS’ Sanscrit MSS. ; Sir William OUSELEY’s Persian ; BRUCE’s Ethiopic and Arabic ; MICHAEL’s Hebrew ; LIBRI’s Italian, French, Latin, and Miscellaneous ; BARROIS’ French and Latin ; as well as the Stowe Collection of Anglo-Saxon, Irish, and English manuscripts, might all have been so united. The liberality of the Treasury becomes very small when compared with the expenditure of individuals. Lord ASHBURNHAM, during the last ten years, has paid nearly as large a sum for MSS. as has been expended on the National Collection since the Museum was first founded.’

The causes which at this period again tended somewhat to slacken the growth of the Printed Collection have been glanced at already. But during the fifteen years from 1836 to 1851, it had increased at the rate of sixteen thousand volumes a year, on the average. When the estimates of 1852 were under discussion, Mr. PANIZZI stated, ‘ that till room is provided, the deficiency must in a great measure continue, and new [foreign] books only to a limited extent be purchased.’ The grant for such purchases was therefore, in that year, limited to four thousand pounds. In a subsequent report, Mr. PANIZZI added, ‘ that he could not but deeply regret the ill-consequences which must accrue by allowing old deficiencies to con-

GROWTH OF
THE PRINTED
DEPART-
MENT UP TO
1851.

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chap. II.
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OF THE
MUSEUM
UNDER SIR
I. ELLIS.

tinue, and new ones to accumulate.' From the same report may be gathered a precise view of the actual additions, from all sources, during the quinquennium of 1846-1850. The increase in the printed books, therefore, although it had not quite kept pace with Mr. PANIZZI's hopeful anticipations in 1852, had actually reached a larger yearly average, during that last quinquennium, than was attained in the like period from 1846 to 1850.

hereafter,
chap. V.

GROWTH OF
THE PRINTED
COLLECTION OF
THE LIBRARY
UP TO 1852.

The report from which these figures are taken was made in furtherance of the good and fruitful suggestion that a great Reading Room should be built within the inner quadrangle. Judging from the past, argued Mr. PANIZZI, in June, 1852, 'and supposing that for the next ten years from seven thousand to seven thousand five hundred pounds will be spent in the purchase of printed books, the increase . . . would be at the average of about twenty-seven thousand volumes a year, without taking into consideration the chance of an extraordinary increase, owing to the purchase or donation of any large collection. It was owing to the splendid bequest of Mr. GRENVILLE that the additions to the Collection in 1847 reached the enormous amount of more than fifty-five thousand volumes. After the steady and regular addition of about twenty-seven thousand volumes for ten years together, here reckoned upon, the Collection of Printed Books in the British Museum might defy comparison, and would approach, as near as seems practicable in such matters, to a state of completeness. The increase for the ten years next following might be fairly reduced to two thirds of the above sum. At this rate, the collection of books, which has been more than doubled during the last fifteen years, would be double of what it now is in twenty years from the present time [1852].' At the date of this report the number of volumes

was already upwards of four hundred and seventy thousand. At the date at which I now write (January, 1870), the number of volumes, as nearly as it can be calculated, has become one million and six thousand. On the average, therefore, of the whole period, the increase has been not less than thirty-one thousand five hundred volumes in every year. The Collection was somewhat more than doubled during the first fifteen years of Mr. PANIZZI's Keepership. During the next like term of years, when the department was partly under the administration of Mr. PANIZZI, and partly under that of Mr. Winter JONES, it was nearly doubled again. It follows that the anticipation expressed in the *Report* of 1852 has been much more than fulfilled. Less than seventeen years of labour have achieved what was then expected to be the work of twenty years.

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OF THE
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H. ELLIS.

If the other departments of the British Museum cannot show an equal ratio of growth during the term now under review, it has not been from lack of zeal, either in their heads or in the Trustees. Their progress, too, was very great, although it is not capable of being so strikingly and compendiously illustrated. It has also to be borne in mind that the arrears, so to speak, of the Library, were relatively greater than those of some other divisions of the Museum.

At the commencement of Sir Henry ELLIS's term of Principal-Librarianship, the Natural-History Collections were partly under the charge of Dr. LEACH, partly under that of Mr. Charles KÖNIG. Both were officers of considerable scientific attainments. In the instance of Dr. LEACH, certain peculiar eccentricities and crotchets were mixed up in close union with undoubted learning and skill. In not a few eminent naturalists a tendency to undervalue the achievements of past days, and to exaggerate those of

PROGRESS
OF THE
NATURAL
HISTORY
COLLEC-
TIONS.

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the day that is passing, has often been noted. LEACH evinced this tendency in more ways than one. But a favourite way of manifesting it led him many times into difficulties with his neighbours. He despised the taxidermy of Sir Hans SLOANE's age, and made periodical bonfires of Sloanian specimens. 'These he was wont to call his 'cremations.' In his time, the Gardens of the Museum were still a favourite resort of the Bloomsburians, but the attraction of the terraces and the fragrance of the shrubberies were sadly lessened when a pungent odour of burning snakes was their accompaniment. The stronger the complaints, however, the more apparent became Dr. LEACH's attachment to his favourite cremations.

GEORGE
MONTAGU;
HIS LABOURS
IN NATURAL
HISTORY
AND HIS
ZOOLOGICAL
MUSEUM.

1802-13.

1803-9.

LEACH was the friend and correspondent of that eminent cultivator of the classificatory sciences, Colonel George MONTAGU, of Lackham. Both of them rank among the early members of the Linnæan Society, and it was under LEACH's editorship that MONTAGU's latest contributions to the Society's *Transactions* were published. MONTAGU's *Synopsis of British Birds* marks an epoch in the annals of our local ornithology, as does his treatise entitled *Testacea Britannica* in those of conchology. His contributions to the National Collections were very liberal. But he did not care much for any books save those that treated of natural history. In addition to a good estate and a fine mansion, he had inherited from his brother a choice old Library at Lackham, and a large cabinet of coins. These, I believe, he turned to account as means of barter for books and specimens in his favourite department of study. His love of the beauties of nature led him to prefer an unpretending abode in Devon to his fine Wiltshire house, and it was at Knowle that he died in August, 1815. His Collections in Zoology were purchased by the Trustees, and were removed

from Knowle soon after his death. Scarcely any other purchase of like value in the Natural-History Department was made for more than twenty years afterwards. After the purchase of the Montagu Collection, the growth of that department depended, as it had mainly depended before it, on the acquisitions made for the Public by the several naturalists who took part in the Voyages of Discovery or whose chance collections, made in the course of ordinary duty, came to be at the disposal of the British Admiralty.

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H. ELLIS.

Many of those naturalists were men of marked ability. Of necessity, their explorations were attended with much curious adventure. To detail their researches and vicissitudes would form—without much credit to the writer—an interesting chapter, the materials of which are superabundant. But, at present, it must needs be matter of hope, not of performance.

The distinctive progress of the Natural-History Collections, from comparative and relative poverty, to a creditable place amongst rival collections, connects itself pre-eminently with the labours of Dr. John Edward GRAY, who will hereafter be remembered as the ablest keeper and organizer those collections have hitherto had. Dr. GRAY is now (1870) in the forty-sixth year of his public service at the British Museum, which he entered as an Assistant, in 1824. He is widely known by his able edition of GRIFFITHS' *Animal Kingdom*, by his *Illustrations of Indian Zoology*, by his account of the famous Derby Menagerie at Knowsley, and by his *Manual of British Shells*; but his least ostensible publications rank among the most conclusive proofs both of his ability and of his zeal for the public service. Dr. GRAY has always advocated the publication—to use Mr. CARLYLE's words when under interrogatory by the Museum

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Chap. II.
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H. ELLIS.

Commissioners of 1848—of ‘all sorts of Catalogues.’ It is to him that the Public owe the admirable helps to the study of natural history which have been afforded by the long series of inventories, guides, and nomenclators, the publication of which began, at his instance, in the year 1844, and has been unceasingly pursued. A mere list of the various printed synopses which have grown out of Dr. GRAY’s suggestion of 1844 would fill many such pages as that which the reader has now before him. The consequence is, that in no department of the Museum can the student, as yet, economise his time as he can economise it in the Natural-History Department. *Printed*, not *Manuscript*, Catalogues mean time saved; disappointment avoided; study fructified. No literary labour brings so little of credit as does the work of the Catalogue-maker. None better deserves the gratitude of scholars, as well as of the general mass of visitors.

STATE
OF THE
NATURAL
HISTORY
COLLEC-
TIONS OF
THE MUSEUM
IN 1836.

Dr. GRAY became Keeper of Zoology in 1840. Four years earlier, he had given to Sir Benjamin HAWES’ Committee a striking account of the condition of that department, illustrating it by comparisons with the corresponding Collections in Paris, which may thus (not without unavoidable injustice) be abridged :—The species of mammalia then in the Museum were four hundred and five; the species of birds were two thousand four hundred, illustrated by four thousand six hundred and fifty-nine individual specimens. At that date, the latest accessible data assigned to the Paris Collection about five hundred species of mammals, and about two thousand three hundred species of birds, illustrated by nearly six thousand specimens. The Museum series of birds was almost equally rich in the orders, taken generally; but in gallinaceous birds it was more than proportionately rich, a

large number of splendid examples having been received from India. In the birds of Africa, of Brazil, and of Northern Europe, also, the Museum was already exceptionally well-stored.

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H. ELLIS.

The special value of the Ornithological Collection undoubtedly showed that it had been more elaborately cared for than had been some other parts of natural history. But the extent and richness of the bird gallery, even at this period, is not to be ascribed merely to a desire to delight the eyes of a crowd of visitors. For scientific purposes, a collection of birds must be more largely-planned and better filled than a collection of mammals, or one of fish. In birds, the essential characters of a considerable group of individual specimens may be identical and their colours entirely different. Besides the numerous diversities attendant upon age and sex, the very date at which a bird is killed may produce variations which have their interest for the scientific student.

See *Minutes
of Evidence*
1836, p. 238.

The number of species of reptiles was in 1836 about six hundred, illustrated by about one thousand three hundred specimens. This number was much inferior to that of the Museum at Paris, but it exceeded by one third the number of species in the Vienna Museum, and almost by one half the then number at Berlin.

Ibid., p. 242
(Q. 2996-9).

The species of fish amounted to nearly a thousand, but this was hardly the fourth of the great collection at Paris, although it probably exceeded every other, or almost every other, Continental collection of the same date. Of shells, the Museum number of species was four thousand and twenty-five (exclusive of fossils), illustrated by about fifteen thousand individuals. This number of species was at par with that of Paris; much superior both to Berlin and to Leyden; but it was far from representing positive—as dis-

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tinguished from comparative—wealth. There were already, in 1836, more than nine thousand known species of shells.

It was further shown in the evidence that, even under the arrangements of 1836, the facilities of public access equalled those given at the most liberal of the Continental Museums, and considerably exceeded those which obtained at fully four-fifths of their number.

THE
HARDWICKE
BEQUEST OF
ZOOLOGY.

Among the many services rendered to the Museum by Dr. GRAY, one is of too important a character to be passed over, even in a notice so brief as this must needs be. The large bequest in Zoology of Major-General HARDWICKE grew out of a stipulation made by Dr. GRAY, when he undertook, at General HARDWICKE's request, the editorship of the *Illustrations of Indian Zoology*. A long labour brought to the editor no pecuniary return, but it brought an important collection to the British Public in the first instance, and eventually a large augmentation of what had been originally given.

GROWTH
OF THE
NATURAL
HISTORY
COLLEC-
TIONS
OF THE
MUSEUM.
1836-49.

In March, 1849, the course of inquiries pursued by Lord ELLESMERE's Commission led to a new review of the growth of the Natural-History Collections, and more especially of the Zoology. It applied in particular to the twelve or thirteen years which had then elapsed since the prior inquiries of 1835-1836. The statement possesses much interest, but it is occasionally deficient in that systematic and necessary distinction between species and specimens which characterised the evidence of 1836. In brief, however, it may be said, that in the eight years extending between June, 1840, and June, 1848, twenty-nine thousand five hundred and ninety-five *specimens* of vertebrated animals were added to the Museum galleries and store-houses. Of these, five thousand seven hundred and ninety-

seven were mammals; thirteen thousand four hundred and fourteen were birds; four thousand one hundred and twelve reptiles; and six thousand two hundred and seventy-two were fish. The number of specimens of annulose animals added during the same period was seventy-three thousand five hundred and sixty-three: and that of mollusca and radiata, fifty-seven thousand six hundred and ten.

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OF THE
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H. ELLIS.

These large additions comprised extensive gatherings made by DYSON in Venezuela, and in various parts of North America; by GARDINER and CLAUSEN in Brazil; by GOSSE in Jamaica; by GOULD, GILBERT, and STEPHENSON, in Australia and in New Zealand; by HARTWEG in Mexico; by GOUDOT in Columbia; by VERREAUX and SMITH in South Africa; by FRAZER in Tunis; and by BRIDGES in Chili and in some other parts of South America.

Of the splendid collections made by Mr. HODGSON in India, some more detailed mention must be made hereafter.

Meanwhile, on the Continent of Europe, political commotion had seriously checked the due progress of scientific collections. Britain had been making unwonted strides in the improvement of its Museum, at the very time when most of the Continental States had allowed their fine Museums to remain almost stationary. In mammals, birds, and shells, the British Museum had placed itself in the first rank. Only in reptiles, fish, and crustacea, could even Paris now claim superiority. Those classes had there engaged for a long series of years the unremitting research and labour of such naturalists as CUVIER, DUMERIL, VALENCIENNES, and MILNE-EDWARDS; and their relative wealth of specimens it will be hard to overtake. In insects, the Museum Collection vies with that of Paris in point of extent, and excels it in point of arrangement.

CHECK IN
THE GROWTH
OF NATURAL-
HISTORY
COLLECTIONS
ON THE
CONTINENT,
1845-1855.

Not less conspicuous had been the growth of the several Departments of Antiquities. And this part of the story of the Museum teems with varied interest. Within a period of less than thirty years, vast and widely-distant cities, rich in works of art, have been literally disinterred. In succession to the superb marbles of Athens, of Phigaleia, and of Rome, some of the choicest sculptures and most curious minor antiquities of Nineveh, of Calah, of Erech, of Ur-of-the-Chaldees, of Babylon, of Xanthus, of Halicarnassus, of Cnidus, and of Carthage, have come to London.

The growth of the subordinate Collections of Archæology has been scarcely less remarkable. The series of ancient vases—to take but one example—of which the research and liberality of Sir William HAMILTON laid a good foundation almost a century ago, has come at length to surpass its wealthiest compeers. Only a few years earlier, it ranked as but the third, perhaps as but the fourth, among the great vase-collections of Europe. London, in that point of view, was below both Naples and Paris, if not also below Munich. It now ranks above them all; possessing two thousand six hundred vases, as against two thousand at Paris, and two thousand one hundred at Naples.*

Another department, lying in part nearer home—that of British, Mediæval, and Ethnological Antiquities—has been almost created by the labours of the last twenty years. The ‘British’ Museum can no longer be said to be a misnomer, as designating an establishment in which British Archæology met with no elucidation.

* Birch, *Ancient Pottery*, vol. i, pp. 209, 210.

CHAPTER III.

INTRODUCTION TO BOOK III (*Continued*):—GROWTH, PROGRESS, AND INTERNAL ECONOMY, OF THE BRITISH MUSEUM DURING THE PRINCIPAL-LIBRARIANSHIP OF SIR ANTONIO PANIZZII.

‘Whatever be the judgment formed on [certain contested] points at issue, the Minutes of Evidence must be admitted to contain pregnant proofs of the acquirements and abilities, the manifestation of which in subordinate office led to Mr. Panizzi’s promotion to that which he now holds under circumstances which, in our opinion—formed on documentary evidence—did credit to the Principal Trustees of the day.’—REPORT OF THE COMMISSIONERS APPOINTED TO INQUIRE INTO THE MANAGEMENT OF THE BRITISH MUSEUM (1850).

‘In consideration of the long and very valuable services of Mr. Panizzi, including not only his indefatigable labours as Principal-Librarian, but also the service which he rendered as architect of the new Reading-Room, the Trustees recommended that he should be allowed to retire on full salary after a discharge of his duties for thirty-four years.’

HANSARD’S *Parliamentary Debates* (27 July, 1866).

The Museum Buildings.—The New Reading-Room and its History.—The House of Commons’ Committee of 1860:—Further Reorganization of the Departments—Summary of the Growth of the Collections in the years 1856-1866, and of their increased Use and Enjoyment by the Public.

NO QUESTION connected with the improvement of the British Museum has, from time to time, more largely engrossed the attention, either of Parliament or of the Public at large, than has the question of the Buildings. On none

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have the divergences of opinion been greater, or the expressions of dissatisfaction with the plans—or with the want of plan—louder or more general.

Yet there is no doubt (amongst those, at least, who have had occasion to examine the subject closely) that the architects of the new British Museum—first Sir Robert SMIRKE, and then Mr. Sydney SMIRKE—have been conspicuous for professional ability. Nor is there any doubt, anywhere, that the Trustees of the Museum have bestowed diligent attention on the plans submitted to them. They have been most anxious to discharge that part of their duty to the Public with the same faithfulness which, on the whole, has characterised their general fulfilment of the trust committed to them. Why, it is natural to ask, has their success been so unequal?

CAUSES OF
THE UNSATISFACTORY-
NESS OF
MANY PARTS
OF THE NEW
MUSEUM
BUILDINGS.

Without presuming upon the possession of competence to answer the question with fulness, there is no undue confidence in offering a partial reply. Part of their failure to satisfy the public expectations has arisen from a laches in Parliament itself. At the critical time when the character of the new buildings had practically to be decided, parsimoniousness led, not only to construction piecemeal, but to the piecemeal preparation of the designs themselves. Temporary makeshifts took the place of foreseeing plans. And what may have sounded like economy in 1830 has, in its necessary results, proved to be very much like waste, long before 1870.

Had a comprehensive scheme of reconstruction been looked fully in the face when, forty years ago, the new buildings began to be erected, three fourths at most of the money which has been actually expended would have sufficed for the erection of a Museum, far more satisfactory in its architectural character, and affording at least one

fourth more of accommodation for the National Collections. The British Museum buildings have afforded a salient instance of the truth of BURKE's words: 'Great expense may be an essential part in true economy. Mere parsimony is *not* economy.' But, in this instance, the fault is plainly in Parliament, not in the Trustees of the establishment which has suffered.

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The one happy exception to the general unsatisfactoriness of the new buildings—as regards, not merely architectural beauty, but fitness of plan, sufficiency of light, and adaptedness to purpose—is seen in the new Reading-Room. And the new Reading-Room is, virtually, the production of an amateur architect. The chief merits of its design belong, indubitably, to Sir Antonio PANIZZII. The story of that part of the new building is worth the telling.

THE NEW
READING-
ROOM.

That some good result should be eventually derived from the large space of ground within the inner quadrangle had been many times suggested. The suggestion offered, in 1837, by Mr. Thomas WATTS was thus expressed in his letter to the Editor of the *Mechanics' Magazine* :—

Mr. WATTS began by criticising, somewhat incisively, the architectural skill which had constructed a vast quadrangle without providing it even with the means of a free circulation of air. He pinned Sir Robert SMIRKE on the horns of a dilemma. If, he argued, the architect looked to a sanitary result, he had, in fact, provided a well of malaria. If he contemplated a display of art, he had, by consenting to the abolition of his northern portico, spoiled and destroyed all architectural effect. 'The space,' he proceeded to say, which has thus been wasted, 'would have afforded accommodation for the *whole Library*, much superior to what is now proposed to afford it. A Reading-Room of ample dimensions might have stood in the centre, and

THE SUG-
GESTIONS
FOR BUILD-
ING ADDI-
TIONAL
LIBRARIES
OF 1837 AND
OF 1847.

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Mechanics'
Magazine
(1837); vol.
xxvi, pp. 295,
seqq.

Ibid.

See Chap. ii
of Book III,
p. 566, and
the accom-
panying
fac-simile.

been surrounded, on all four sides, with galleries for the books.' Afterwards, when adverting to the great expense which had been incurred upon the façades of the quadrangle, he went on to say: 'It might now seem barbarous to propose the filling up of the square—as ought originally to have been done. Perhaps the best plan would be to design another range of building entirely [new?], enclosing the present building on the eastern and northern sides as the Elgin and other galleries do on the western. To do this, it would be necessary to purchase and pull down one side of two streets,—Montagu Street and Montagu Place.'

As I have intimated already, this alternative project was unconsciously reproduced, by the present writer, ten years later, without any idea that it had been anticipated. But neither to the mind of the writer of 1837, nor to that of the writer of 1847, did the grand feature of construction which, within another decade, has given to London a splendid building as well as a most admirable Reading-Room, present itself. The substantial merit, both of originally suggesting, and of (in the main) eventually realising the actual building of 1857, belongs to Antonio PANIZZI.

As to the claims on that score advanced by Mr. HOSKING, formerly Professor of Architecture at King's College, they apply to a plan wholly different from the plan which was carried into execution.

Mr. HOSKING's scheme was drawn up, for private circulation, in February, 1848 (thirteen months after the writing of my own pamphlet entitled *Public Libraries in London and in Paris*, and more than six months after its circulation in print), when it was first submitted to Lord ELLESMERE's Commission of Inquiry. It was first published (in *The Builder*) in June, 1850. His object was to pro-

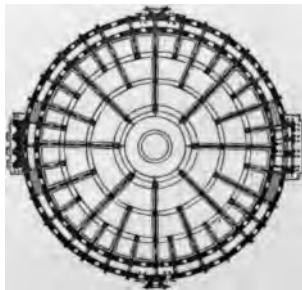
vide a grand central hall for the Department of Antiquities.

When Mr. Hosking called public attention to his design of 1848—in a pamphlet entitled *Some Remarks upon the recent Addition of a Reading-Room to the British Museum*—Mr. Sydney Smirke wrote to him thus:—‘I recollect seeing your plans at a meeting of the Trustees, . . . shortly after you sent them [to Lord Ellesmere]. When, long subsequently, Mr. Panizzi showed me his sketch for a plan of a new Reading-Room, I confess it did not remind me of yours, the purposes of the two plans and the treatment and construction were so different.’* Whilst to Mr. Smirke himself belongs the merit of practical execution, that of design belongs no less unquestionably to Panizzi.

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Sydney
Smirke to
William
Hosking.
(*Remarks*,
&c.)

* If the question of mere hints and analogies in construction were to be followed out to its issues, the result, I feel assured, would in no degree tend to strengthen the contention of Mr. Hosking’s pamphlet. Something like a first germ of the mere ground-plan of the new Reading-Room may, perhaps, be found in M. Benjamin Delessert’s *Projet d’une Bibliothèque circulaire*, printed, at Paris, as far back as the year 1835, when the question of reconstructing the then ‘Royal,’ now ‘Imperial Library,’ was under discussion in the French Chambers. ‘I propose,’ says Delessert, ‘to place the officers and the readers in the centre of a vast rotunda, whence branch off eight principal galleries, the walls of which form diverging radii . . . and have book-cases on both sides,’ &c. His plan may be thus shown, in small. The differences, it



will be seen, between this sketch and Mr. Panizzi’s sketch of 1854, are greater than are the resemblances.

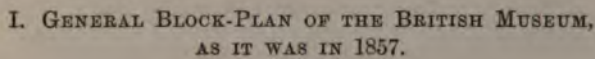
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THE NEW
OR PANIZZI
READING-
ROOM.

Mr. PANIZZI himself preferred, at first, the plan extending the building on the eastern and northern side. His suggestions had the approval of the Commissioner in 1850. But the Government was slow to give power to the Trustees to carry out the plan of their officer and recommendation of the Commissioners of Inquiry, by imposing the needful vote in a Committee of Supply. His plan and Report alike lay dormant from the year 1850 to 1854, when it was then that, as a last resort, and as a measure of economy by avoiding all present necessity to buy more ground of the Duke of BEDFORD, Mr. PANIZZI recommended the Trustees to build within the quadrangle, and drew a sketch-plan, which their architect reported favourably. Sixty-one thousand pounds, by way of a first instalment, was voted on the third of July, 1854. The present noble structure was completed within three years from that day, and its total cost—including the extensive series of book-galleries and rooms of various kinds, subserving almost innumerable purposes—amounted in round numbers to a hundred and fifty thousand pounds. It was thus only a little more than the cost of the King's Library, which accommodates eight thousand volumes of books and a Collection of Birds. The new Reading-Room and its appendages can be made to accommodate, in addition to its three hundred and more readers, some million, or near it, of volumes, without impediment to their fullest accessibility.

To describe by words a room which, in 1870, has become more or less familiar, I suppose, to hundreds of thousands of Britons, and to a good many thousands of foreigners, would now be superfluous. But it will not be without advantage, perhaps, to show its character and appearance with the simple brevity of woodcuts.

The following illustrative block-plan shows the gene

BLOCK-PLAN
OF MUSEUM
(1857), DIS-
TINGUISH-
ING THE
LIBRARIES
FROM THE
GALLERIES
OF ANTI-
QUITIES, &c.

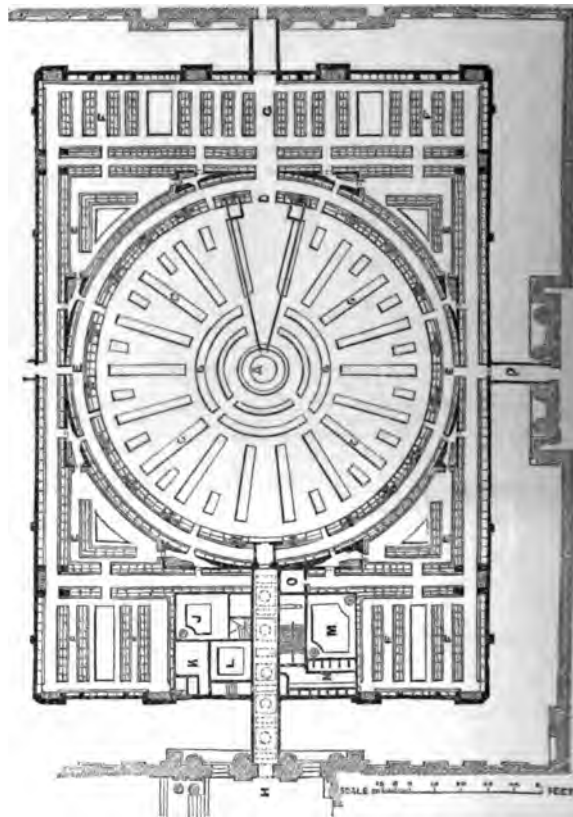


The shaded part of the building itself shows the portions allotted to the *Library*. The unshaded part is assigned, on the ground floor, to the Department of *Antiquities*, and (speaking generally) on the floor above—in common with

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the upper floors of the Library part—to the Departments of *Natural History*. The '*Print Room*' is shown on the ground-plan between the Elgin Gallery and the north-western extremity of the Department of Printed Books.

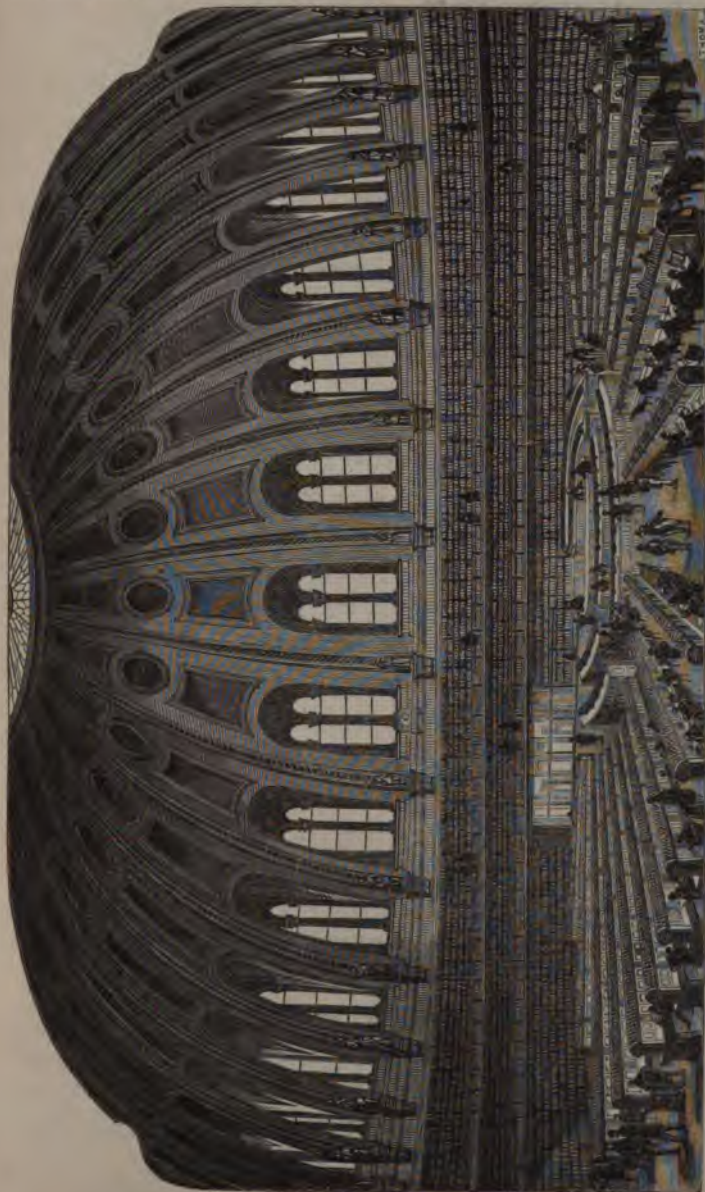
The next illustration shows, in detail, the ground-plan of the new Reading-Room and of the adjacent book-galleries :—



II. GROUND-PLAN OF THE NEW OR 'PANIZZI' READING-ROOM,
AND OF THE ADJACENT GALLERIES, 1857.

The general appearance of the interior of the Reading-Room may be shown thus :—

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III. INTERIOR VIEW OF THE NEW READING-ROOM, 1857.

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Of course, the improvements thus effected did but solve a portion of the difficulty felt, long before 1857, in accommodating the National Collections upon any adequate scale, which should provide alike for present claims and for future extension. This more effectual provision became one of the most pressing questions with which both the Trustees and their officers had now to deal. During the whole term of Sir A. PANIZZI'S Principal-Librarianship this building question increased in gravity and urgency, from year to year. Both the Trustees and the Principal-Librarian were intent upon its solution. But the latter was enforced, by failing health, to quit office, leaving the matter still unsolved.

PARLIA-
MENTARY
INQUIRY
INTO PRO-
POSED EN-
LARGEMENT
OF BRITISH
MUSEUM
IN 1860.

Most of the little information on this part of the subject which, within my present limits, it will be practicable for me to offer to the reader, belongs, properly, to a subsequent chapter. But some brief notice must be given here of the important inquiries, 'how far, and in what way, it may be desirable to find increased space for the extension and arrangement of the various Collections of the British Museum, and the best means of rendering them available for the promotion of Science and Art,' which were made, between the months of May and August of 1860, by a Select Committee of the House of Commons.

The first question to be answered by the Committee of 1860 was this: Is it expedient, or not, that the *Natural-History* Collections should be removed from Bloomsbury, to make room for the inevitable growth of the Collections of *Antiquities*?

After an elaborate inquiry, spreading over three months, the Committee reported thus:—'The witnesses examined have, almost unanimously, testified to the preference over the other Collections, with which the Natural-His-

tory Collections are viewed by the ordinary and most numerous frequenters of the Museum. This preference is easily accounted for; the objects exhibited, especially the birds, from the beauty of their plumage, are calculated to attract and amuse the spectators. The eye has been accustomed in many instances to the living specimens in the Zoological Gardens, and cheap publications and prints have rendered their forms more or less familiar. It is, indeed, easily intelligible that, while for the full appreciation of works of archæological interest and artistic excellence a special education must be necessary, the works of Nature may be studied with interest and instruction by all persons of ordinary intelligence. It appears, from evidence, that many of the middle classes are in the habit of forming collections in various branches of Natural History, and that many, even the working classes, employ their holidays in the study of botany or geology, or in the collection of insects obtained in the neighbourhood of London; that they refer to the British Museum, in order to ascertain the proper classification of the specimens thus obtained, and that want of leisure alone restrains the further increase of this class of visitors. Your Committee, in order to confirm their view of the peculiar popularity of the Natural-History Collections, beg to refer to a return from the Principal-Librarian, which shows the number of visitors in the several public portions of the Museum, at the same hour of the day, during fifteen open days, from the fifteenth of June to the eleventh of July, 1860. From this it appears that two thousand five hundred and fifty-seven persons were in the Galleries of Antiquities at the given hour, and one thousand and fifty-six in the King's Library and MSS. Rooms, while three thousand three hundred and seventy-eight were in the Natural-History Galleries; showing an excess of two

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THE
SELECT
COMMITTEE
OF THE
HOUSE OF
COMMONS,
1860.

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hundred and twenty per cent. in the Natural-History Department over the King's Library and MSS. Rooms, and of thirty-three per cent. over the Galleries of Antiquities, notwithstanding that the latter are of considerably greater extent than the Galleries of Natural History. The evidence received by your Committee induces the belief that the removal of these most popular collections from their present central position to one less generally accessible would excite much dissatisfaction, not merely among a large portion of the inhabitants of the metropolis, but among the numerous inhabitants of the country, who from time to time visit London by railway, and to whom the proximity of the British Museum to most of the railway termini, as compared with the distance of the localities to which it has been proposed to transport such collections, is of great practical importance. Similar evidence shows that the proposed removal of those collections from the British Museum has excited grave and general disapprobation in the scientific world. Your Committee cannot here employ more forcible language than that made use of in a memorial signed by one hundred and fourteen persons, including many eminent promoters and cultivators of science in England, and presented to the Chancellor of the Exchequer in 1848. The following are their words :—" We beg to add the expression of our opinion that the removal of the Natural-History Collections from the site where they have been established for upwards of a century, in the centre of London, particularly if to any situation distant from that centre, would be viewed by the mass of the inhabitants with extreme disfavour, it being a well-known fact that by far the greater number of visitors to the Museum consists of those who frequent the halls containing the Natural-History Collections, while it is obvious that many of

those persons who come from the densely peopled districts of the eastern, northern, and southern parts of London, would feel it very inconvenient to resort to any distant locality.”’

After an elaborate examination into the nature and extent of those enlargements which the present growth and probable increase of the several Collections of Antiquities and of Natural History render necessary, the Committee proceed thus :—

The ground immediately surrounding the Museum, says the reporter, speaking of the adjacent streets to the east, west, and north, ‘comprises altogether about five and a half acres, valued by Mr. SMIRKE at about two hundred and forty thousand pounds. As the proprietary interest in all this ground belongs to a single owner, your Committee are of opinion that it would be convenient, and possibly even a profitable arrangement, for the State at once to purchase that interest, and to receive the rents of the lessees in return for the capital invested. The State would then have the power, whenever any further extension of the Museum became necessary, to obtain possession of such houses as might best suit the purpose in view.

‘Independently, however, of this larger suggestion, your Committee are fully convinced, both from the uniform purport of the papers printed at different times by the House of Commons, and from the statements of the various witnesses whom they have now examined, that it is indispensable, not merely to the appropriate exhibition of our unequalled National Collections, but even to the avoidance of greater ultimate expense, through alterations and rearrangements, that sufficient space should be immediately acquired in connexion with the British Museum, to meet the requirements of the several departments which have been enumerated under the last head, and that such space

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RECOM-
MENDATIONS
OF THE
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COMMITTEE
OF 1860.

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should throughout be adapted, by its position, extent, and facilities of application, to the arrangement of the collections on a comprehensive, and, therefore, probably permanent system. They will now proceed to point out several sites, either on or adjoining the present ground of the Museum, which seem to them to present the greatest advantages for the accommodation of the respective departments.'

NATURAL
HISTORY
COLLEC-
TIONS.

Although, the Committee proceed to say, the amount of space which, on the foregoing estimate, would be requisite for the Natural-History Collections is not so great as to involve the necessity of their removal from the British Museum on that ground alone, your Committee, nevertheless, attach so much weight to the arguments in favour of preserving the various departments of the Museum from the risk of collision with each other, that, should it be determined to provide new space for Natural History in connexion with the Museum, they would make it a primary object to isolate its collections, as far as possible, from all others in the same locality. The chief part of the Natural-History Collections is now on the upper floor, where they occupy, according to the return of Mr. SMIRKE, in November, 1857, forty-eight thousand four hundred and forty-two superficial feet. The remainder of that floor, containing, exclusively of a small space not reckoned by Mr. SMIRKE, twenty-one thousand five hundred and thirty-two feet, is occupied by Antiquities. It appears to your Committee that if, by any adaptation of ground to be acquired adjoining the Museum, adequate space should be provided elsewhere for the Antiquities now on the upper floor, the most expedient arrangement would be to appropriate the whole of that floor to the Natural-History Collections. If this space proved insufficient for all such collections, your Committee would then recommend that the newly acquired portion should be

applied exclusively to the Department of Zoology; and that a sufficient portion of ground should be purchased on the north side of the Museum as a site for galleries to provide for Mineralogy, and thus also indirectly for Geology.

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PRINTS AND
DRAWINGS.

A convenient site for this department would, in the opinion of the Committee, be provided by the suggested acquisition of additional ground on the north side. A building might there be erected in continuation of the present east wing of the Museum, to contain, on its upper floor, the Mineralogical Collections, and on the lower the Prints and Drawings, with adequate space both for their preservation and exhibition.

In determining the site most suitable for the large additional accommodation required for this department, the Committee thought it most prudent that the Trustees of the Museum should be guided, partly by the greater or less cost of purchasing the requisite amount of ground in different directions, but chiefly by the greater or less fitness of the different portions of ground for the best system of arrangement.

ANTIQUITIES.

In the same year in which Mr. PANIZZI became Principal-Librarian (1856), one of the recommendations of Lord ELLESMERE'S Commission-Report of 1850 was carried into effect by the creation of the new office of 'Superintendent of the Natural-History Departments.' And the former partial subdivision and reorganization of those departments was, in the following year, carried further by the formation of a separate Department of Mineralogy. In subsequent years, the old Department of Antiquities was, like the Natural History, divided into four departments, namely, (1) Greek and Roman Antiquities; (2) Oriental Antiquities; (3) British and Mediæval Antiquities and Ethnography; (4) Coins and Medals.

INTERNAL
ECONOMY:—
REORGANIZATION AND
SUB-DIVISION OF
DEPARTMENTS.
1856-66.

600 **LATER AUGMENTORS AND BENEFACTORS.**

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SP. III.
STORY
THE
USNUM
IDEX SIR
PANIZZI.

The rapid growth of the Collection of Printed Books, more especially between the years 1845-1865, which had, as we have seen, resulted from the unremitting labours of Mr. PANIZZI, was well kept up, both under his immediate successor, Mr. John Winter JONES, and (after Mr. JONES' promotion to the Principal-Librarianship, towards the close of 1866) by the next Keeper, Mr. WATTS. As is well known, the increase of the Library is still more remarkable for the character of the additions purchased than for their mere number. But recent years have afforded no such instance of individual munificence in this department of the Museum as that which will presently call for detailed notice when we record the acquisition (in 1846) of the Grenville Library, nor could any such instance, indeed, be reasonably looked for.

Sir Frederick MADDEN's energetic researches and labours for the improvement of the Collection of MSS. would well merit a fuller account than it is here practicable to give of them. They have been perseveringly and worthily continued by his successor, Mr. Edward Augustus BOND, to whom students also owe the great and distinctive debt of the commencement of an admirable "INDEX OF MATTERS" to the Collection generally. No greater boon, in the way of Catalogues, was ever given within the walls of the Museum, though, as yet, it is necessarily a beginning only. The special labours of Dr. GRAY in that sphere, for the Natural-History Collections, comprised the extended advantage of printing and sale. Not less, I hope, will eventually be done for the service of manuscript students. There is the desire to do it, and the means must, sooner or later, follow.

The wonderful growth and development of the Collections of Antiquities in recent years is the special subject of

the next chapter. That growth derives no small part of its permanent scientific interest and value from the impressive way in which it illustrates the teachings of Holy Scripture. *Some* of the collections amassed in the British Museum have, more than once, by dint of human vanity, been made to subserve a laudation of the wonderful achievements of Man, rather than of the power, wisdom, and goodness of God ; but for the ebullitions of human vanity there is extremely little room when a visitor stands beside the sculptured memorials of that vast empire which 'the cedars in the garden of God could not hide,' which was 'lifted up in the pride of its height,' only to become a marvel for desolation, so that upon its ruin 'the fowls of the heaven remain.' When before our own eyes and ears the very stones cry out in the wall, and the beams out of the timber answer them, the man vainest of his science or of his philosophy must needs be led to ask himself: 'What hath God wrought?'

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Ezek. xxxi,
8 to 18.
Comp.
Habak. ii, 14.

Some very advanced men of science have become, of late, fond of 'Sunday-evening Lectures' *for the instruction of the working classes*. That would be a tolerably impressive Sunday-evening Lecture which a competent scholar could give in the Assyrian Gallery of the British Museum.

Here, and now, the recent increase of the Department of Antiquities may be wholly passed over. But to that part of the history of accessions which bears upon the Natural-History Galleries some attention must needs be given, by way of continuing our former brief epitome of the improvements made between the years 1836 and 1850.

Of the state of the Department of Zoology, during the earlier part of the decade now more immediately under review, a good and instructive account was given in Pro-

fessor OWEN's Annual Report of 1861. Its most material portions run thus :—

‘The proportion of the stuffed specimens of the class Mammalia, exhibited in the glazed cases of the Southern Zoological Gallery and Mammalian Saloon, is in good condition. The stuffed specimens, which, from their bulk, or from want of space in the cases, stand on the floor, have suffered in a certain degree from exposure to the corrosive smoke-dust of the metropolis, the effects of which cannot be wholly prevented.’

The proportion, continues Mr. OWEN, of the Collection of Mammalia consisting of skins preserved in boxes, the Osteological specimens, including the horns and antlers, and the specimens kept in spirit, are all in a good state of preservation. The unstuffed, Osteological and bottled specimens are unexhibited and restricted in use, as at present located, to scientific investigation and comparison ; but it is with difficulty that the special visitor for such purposes can now avail himself of these materials, owing to their crowded accumulation in the Basement Rooms in which they are stored.

‘The exhibited Collection of Birds is in a good state of preservation, is conveniently arranged for public inspection, and is usefully and instructively named and labelled. The interest manifested by visitors, and the satisfaction generally expressed in regard to this gallery, indicate the amount of public instruction and gratification which would result from a corresponding serial arrangement and exposition of the other classes of the animal kingdom.

‘The stuffed and exhibited selections from the classes of Reptilia and Fishes, are in a very good state of preservation ; they suffer less from the requisite processes of cleaning than the classes covered by hair, fur, or feathers.

‘Of these cold-blooded Vertebrates the proportion pre-

served in spirits is much greater than in Mammals and Birds, and, consequently, through the present allotment of space, the majority of the singular specific forms of Reptiles and Fishes are excluded from public view. Upwards of two thousand specimens in spirits of these classes have been added in the past year to the previously crowded shelves of the basement store-rooms, where access to any individual specimen is a matter of some difficulty, if not hazard. Of the above additions, fourteen hundred and fifty-six have accrued from the donation of the Secretary of State for India in Council. The interest and novelty of the specimens have constrained their acceptance, and the same reason has led to the acquisition of many additions from other sources.

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‘Amongst them deserve to be specified two specimens of that singular snake, the *Herpeton tentaculatum*, known for a century past only by a single discoloured example in the Paris Museum; those now in the stores of the British Museum were acquired from Siam, and have served to enrich Zoology with a complete knowledge of the species, through the descriptions and figures by Dr. GÜNTHER.

‘The following may be also specified, namely, the burrowing Snake from South Africa, *Uriechis microlepidotus*; a new genus of tree-snake, *Herpetoreas*; a new genus, *Barycephalus*, of Saurian, from an altitude in the Himalayas of fifteen thousand feet above the level of the sea; also two new species of freshwater Tortoise, the *Emys Livingstonii*, dedicated to its discoverer in Africa, and the *Emys Siamensis*. Among the additions to the class of Fishes has been acquired a new genus, *Hypsiptera*, of the Scomberoid family; with several new species, including one, *Centrolophus Britannicus*, belonging to this country.

‘The specimens of the Molluscous classes showing the entire animal, preserved in spirits, and stored in the base-

ment room, are in good condition. The entire class of *Tunicata* is so preserved; also the families or genera devoid of, or with rudimental, shells, in the other Molluscan classes. A small proportion of such "naked" Mollusca, and the soft parts of a few of the testaceous kinds, are represented by coloured wax models in the exhibited series of shells arranged in the Bird Gallery.

'The whole of the exhibited collection is in an excellent state of preservation. The system or scale on which the genera, species, and local varieties of shells are exhibited, with their names and localities, gives to the ordinary visitor a power of comparing his own specimens, and, in most instances, of determining them, without the necessity of special application to the keeper or assistant in the department. The extent to which students and others avail themselves of this facility of comparison, and the value attached to it, show that the above principle and scale of exhibition of specimens are proper to be adopted in a National Museum for public use.'

In the year following the presentation of this Report, Professor OWEN made a more elaborate review, both of the condition and of the needs of the Zoological Department, from which I gather broadly, and by abridgement, the following striking results:—

The number of *species* of Mammals possessed by the British Museum was a little over two thousand, exemplified by about three thousand individual specimens. In the year 1830, the number of *specimens* had been about one thousand three hundred and fifty; in 1850, it had risen to nearly two thousand. It follows that, within thirty-two years, the number of specimens in the Museum Collection had been somewhat more than doubled. But still the number of *species* adequately illustrated was only about two thousand

against three thousand five hundred species of Mammals which are known, named, and have been more or less adequately described, by zoologists.

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Of Birds, about two thousand five hundred species were, in 1862, exhibited in the galleries of the British Museum, and in its store-rooms there were the skins of about four thousand two hundred species. The number of species already known and described, in 1862, was not less than eight thousand three hundred. And, it is hardly necessary to add, vast explorations have since been undertaken, in the years which have elapsed, or are now about to be undertaken, in Africa, in Madagascar, in Borneo, in New Guinea, and in many parts of Australia.

Of Fishes, the Museum contained, in 1862, about four thousand species. These were then represented, by way of public exhibition, irrespectively of the unexhibited stores, by about one thousand five hundred stuffed specimens, illustrating about one thousand species. The total number of recorded species, already at that date, amounted to more than eight thousand.

Of Reptiles, little more than two hundred and fifty species were publicly shown in the Museum Galleries, but its collections, unexhibited for want of space, were already much larger. The number of known species of *Reptilia*, in 1862, exceeded two thousand.

Coming to the Invertebrata, it appears that, in 1862, about ten thousand species of molluscs, illustrated by about one hundred thousand specimen shells, were publicly exhibited. This, it will be remembered, was anterior to the great accession of the CUMING Collection, which already, in 1862, contained more than sixteen thousand *species*—and is the finest and most complete series ever brought together.

See, herein-
after,
Chap. VI.

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Chap. III.
HISTORY
OF THE
MUSEUM
UNDER SIR
A. PANIZZI.

About forty-five thousand specimens of molluscs were, in 1862, stored in the drawers of the galleries and other rooms, or in the vaults beneath. These, on a rough computation, may have illustrated about four thousand five hundred species.

Within the *two years only*, 1860-1862, the registered number of specimens of Fossils was increased from one hundred and twenty thousand to one hundred and fifty-three thousand, but of these it was found possible to exhibit to the Public little more than fifty thousand specimens.

GROWTH
OF THE
MINERALOGICAL
COLLECTIONS.
1858-1862.

Coming to the Department of Mineralogy, we find that the registered specimens had increased, within about four years, from fifteen thousand to twenty-five thousand. This increase was mainly due to the acquisition of the noble ALLAN-GREG Cabinet formed at Manchester. But large as this increase is, the national importance of the Mineralogical Collections is very far from being adequately represented by the existing state of the Museum series, even after all the subsequent additions made between the years 1862-1870. A Museum of Mineralogy worthy of England must eventually include five several and independent collections. There must be (1) a Classificatory Collection, for general purposes; (2) a Geometrical Collection, to show the crystalline forms; (3) an Elementary Collection, to show the degrees of lustre and the varieties of cleavage and of colour; (4) a Technological Collection, to show the economic application of minerals—the importance of which, to a commercial, manufacturing, and artistic country, can hardly be exaggerated. Last of all, there is needed a special collection of an ancillary kind; that, I mean, which has been called sometimes a ‘teratological’ collection, sometimes a ‘pseudomorphic’ collection. Call it as you will, its object

Webb,
Report, as
above (1862).

Ibid.)

THE BRITISH MUSEUM UNDER SIR A. PANIZZI. 607.

is important. Such a series serves to show both the defective and the excessive forms of minerals, and their transitional capacities. These five several collections are, it will be seen, over and above that other special Collection of Sky-stones or 'Meteorites,' which is already very nobly represented in our National Museum.

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A. PANIZZI.

CHAPTER IV.

ANOTHER GROUP OF ARCHÆOLOGISTS AND EXPLORERS.—THE SPOILS OF XANTHUS, OF BABYLON, OF NINEVEH, OF HALICARNASSUS, AND OF CARTHAGE.

'She doted upon the Assyrians her neighbours,
when she saw men pourtrayed upon the wall,—the images
of the Chaldeans pourtrayed with vermillion, girded with
girdles upon their loins, exceeding in dyed attire upon
their heads; all of them princes to look to, after the
manner of the Babylonians of Chaldea.'

EZEKIEL xxiii, 12-15.

'I do love these ancient ruins;
We cannot tread upon them, but we set
Our foot upon some reverend history.

.
But all things have their end,
Castles and cities (which have diseases like to men)
Must have like death which we have.'

WEBSTER, *The Duchess of Malfi*.

The Libraries of the East.—The Monasteriès of the Nitrian Desert, and their Explorers.—William CURETON and his Labours on the MSS. of Nitria, and in other Departments of Oriental Literature.—The Researches in the Levant of Sir Charles FELLOWS, of Mr. LAYARD, and of Mr. Charles NEWTON.—Other conspicuous Augmentors of the Collection of Antiquities.

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Chap. IV.
ANOTHER
GROUP OF
ARCHÆOLO-
GISTS AND
EXPLORERS.

WE have now to turn to that vast field of research and exploration, from which the national Museum of Antiquities has derived an augmentation that has sufficed to double, within twenty-five years, its previous scientific and

[literary value to the Public. In this chapter we have to tell of not a little romantic adventure; of remote and perilous explorations and excavations; sometimes, of sharp conflicts between English pertinacity and Oriental cunning; often, of great endurance of hardship and privation in the endeavour at once to promote learning—the world over—and to add some new and not unworthy entries on the long roll of British achievement.

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GISTS AND
EXPLORERS.

Two distinct groups of explorers have now to be recorded. The labours of both groups carry us to the Levant. What has been done of late years by the searchers after manuscripts, in their effort to recover some of the lost treasures of the old Libraries of the East, will be most fairly appreciated by the reader, if, before telling of the researches and the studies of CURZON, TATTAM, CURETON, and their fellow-workers in Eastern manuscript archæology, some brief prefatory notice be given of the earlier labours, in the same field, of HUNTINGTON, BROWNE, and other travelers in the seventeenth and eighteenth centuries. Mention must also be made of the explorations of SONNINI and of ANDRÉOSSI.

THE
LIBRARIES
OF THE EAST.

About the year 1680, Robert HUNTINGTON, afterwards Bishop of Raphoe, visited the Monasteries of the Nitrian Desert, and made special and eager research for the Syriac version of the *Epistles of St. Ignatius*, of the existence of which there had been wide-spread belief amongst the learned, since the time of Archbishop USSHER. But his quest was fruitless, although, as it is now well known, a Syriac version of some of those epistles did really exist in one of the monasteries which HUNTINGTON visited. The monks, then as afterwards, were chary of showing their MSS., very small as was the care they took of them. The

THE
RESEARCHES
OF ROBERT
HUNTING-
TON IN THE
NITRIAN
MONAS-
TERIES;

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EXPLORERS.

only manuscripts mentioned by HUNTINGTON, in recording his visits to three of the principal communities—St. Mary Deipara, St. Macarius, and El Baramous—are an *Old Testament* in the Estrangelo character; two volumes of Chrysostom in Coptic and Arabic; a Coptic Lectionary in four volumes; and a *New Testament* in Coptic and Arabic.

AND THOSE
OF SONNINI,
BROWNE,
AND OTHERS.

Towards the close of the following century, these monasteries received the successive visits of SONNINI, of William George BROWNE, and of General Count ANDRÉOSSI. SONNINI says nothing of books. BROWNE saw but few—among them an Arabo-Coptic *Lexicon*, the works of St. Gregory, and the *Old* and *New Testaments* in Arabic—although he was told by the superior that they had nearly eight hundred volumes, with none of which they would part. General ANDRÉOSSI, on the other hand, speaks slightly of the books as merely ‘ascetic works, . . . some in Arabic, and some in Coptic, with an Arabic translation in the margin;’ but adds, ‘We brought away some of the latter class, which appear to have a date of six centuries.’ This was in 1799. BROWNE died in 1814; SONNINI DE MANONCOURT, in 1812; Count ANDRÉOSSI survived until 1828.

Browne,
*Travels in
Africa, &c.*,
p. 43.

Huntington,
Observations
(repr. in
Ray’s Coll.).

Andréossi,
*Vallées des
Lacs de Nation*,
pass.

In the year 1827, the late Duke of NORTHUMBERLAND (then Lord PRUDHOE) made more elaborate researches. His immediate object was a philological one, his Lordship desiring to further Mr. TATTAM’s labours on a Coptic and Arabic Dictionary. Hearing that ‘Libraries were said to be preserved, both at the Baramous and Syrian convents,’ he proceeded to El Baramous, accompanied by Mr. LINART, and encamped outside the walls. ‘The monks in this convent,’ says the Duke, ‘about twelve in number, appeared poor and ignorant. They looked on us with

Lord Prudhoe’s *Narrative, &c.*, as abridged in *Quarterly Review*, vol. lxxvii, pp. 46, seq.

great jealousy, and denied having any books, except those in the church, which they showed us.' But having been judiciously mollified by some little seductive present, on the next day, 'in a moment of good humour, they agreed to show us their Library. From it I selected a certain number of Manuscripts, which, with the *Lexicon* (*Selim*) already mentioned, were carried into the monk's room. A long deliberation ensued, . . . as to my offer to purchase them. Only one could write, and at last it was agreed that he should copy the *Selim*, which copy and the MSS. I had collected were to be mine, in exchange for a fixed sum of dollars, to which I added a present of rice, coffee, tobacco, and such other articles as I had to offer.' After narrating the acquisition of a few other MSS. at the Syrian convent, or Convent of St. Mary Deipara, his Lordship proceeds :—' These manuscripts I presented to Mr. TATTAM, and gave him some account of the small room with its trap-door, through which I descended, candle in hand, to examine the manuscripts, where books, and parts of books, and scattered leaves, in Coptic, Ethiopic, Syriac, and Arabic, were lying in a mass, on which I stood. . . . In appearance, it seemed as if, on some sudden emergency, the whole Library had been thrown down this trap-door, and they had remained undisturbed, in their dust and neglect, for some centuries.'

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Ten years later, Mr. TATTAM himself continued these researches. But in the interval they had been taken up by the energetic and accomplished traveller Mr. Robert CURZON, to whose charming *Visits to the Monasteries of the Levant* it is mainly owing that a curious aspect of monastic life, which theretofore had only interested a few scholars, has become familiar to thousands of readers of all classes.

THE
RESEARCHES
IN THE
LEVANTINE
MONASTE-
RIES OF MR.
CURZON.

Mr. CURZON's researches were much more thorough

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than those of any of his predecessors. He was felicitous in his endeavours to win the good graces of the monks, and seems often to have made his visits as pleasant to his hosts as afterwards to his readers. But, how attractive soever, only one of them has to be noticed in connexion with our present topic—that, namely, to the Convent of the Syrians mentioned already. ‘I found,’ says Mr. CURZON, ‘several Coptic MSS. lying on the floor, but some were placed in niches in the stone wall. They were all on paper, except three or four; one of them was a superb MS. of the Gospels, with a commentary by one of the early fathers. Two others were doing duty as coverings to large open pots or jars, which had contained preserves, long since evaporated. On the floor I found a fine Coptic and Arabic Dictionary, with which they refused to part.’ After a most graphic account of a conversation with the Father Abbot—the talk being enlivened with many cups of rosoglio—he proceeds to recount his visit to a ‘small closet, vaulted with stone, which was filled to the depth of two feet or more with loose leaves of Syriac MSS., which now form one of the chief treasures of the British Museum.’ The collection thus ‘preserved’ was that of the Coptic monks; the same monastery contained another which was that of the Abyssinian monks. ‘The disposition of the manuscripts in the Library,’ continues Mr. CURZON, ‘was very original. . . . The room was about twenty-six feet long, twenty feet wide, and twelve feet high; the roof was formed of the trunks of palm-trees. A wooden shelf was carried, in the Egyptian style, around the walls, at the height of the top of the door, . . . underneath the shelf various long wooden pegs projected from the wall, . . . on which hung the Abyssinian MSS., of which this curious Library was entirely composed. The books of Abyssinia

are bound in the usual way—sometimes in red leather, and sometimes in wooden boards, . . . they are then enclosed in a case, . . . to which is attached a strap, . . . and by these straps the books are hung on the wooden pegs, three or four on a peg, or more, if the books were small; their usual size was that of a small, very thick quarto. . . . Almost all Abyssinian books are written upon skins. . . . They have no cursive writing; each letter is therefore painted, as it were, with the reed-pen. . . . Some manuscripts are adorned with the quaintest and grimest illustrations conceivable, . . . and some are worthy of being compared with the best specimens of caligraphy in any language.’ Then follows an amusing account of the ‘higgling of the monks,’ after a truly Abyssinian fashion, ending in the acquisition of books, of the whole of which the travellers could not, by any packing or stuffing, make their bags containable. ‘In this dreadful dilemma, . . . seeing that the quarto was the most imperfect, I abandoned it; and I have now reason to believe, on seeing the manuscripts of the British Museum, that this was the famous book, with the date of *A.D.* 411, the most precious acquisition to any Library that has been made in modern times, with the exception, as I conceive, of some in my own Collection. . . . ‘This book, which contains some lost works of Eusebius, has . . . fallen into better hands than mine.’

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GISTS AND
EXPLORERS.

Curzon,
Visits, &c.,
as above.

In the following year (1838), the Rev. Henry TATTAM (afterwards Archdeacon of Bedford), in furtherance of the purpose which had previously enlisted Lord PRUDHOMÉ'S co-operation, set out upon his expedition into Egypt. He arrived at Cairo in October, and in November proceeded up the Nile as far as Esneh, visiting many monasteries, and inspecting their Libraries, in most of which he only met with liturgies and service-books. Sanobon was an ex-

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MISS PLATT'S
Journal (un-
published, but
abridged in
the *Quarterly
Review*, as
above).

RESEARCHES
OF ARCH-
DEACON
TATTAM.

ception, for there he found eighty-two Coptic MSS., some of them very fine.

Continuing the narrative, we find that on the 12th of January they started across the desert for the valley of the Natron Lakes, and pitched their tent at a short distance from the Monastery of Macarius. The monks told them that of these convents there had once been, on the mountain and in the valley of Nitria, no less than three hundred and sixty. Of fifty or thereabouts the ruins, it is said, may still be seen. At the Convent of the Syrians, the Archdeacon was received with much civility, not, however, unaccompanied by a sort of cautious circumspection. After a look at the church, followed by the indispensable pipes and coffee, the monks asked the cause to which they were indebted for the honour of his visit. He told them discreetly that it was his wish to see their books. 'They replied that they had no more than what he had seen in the church; upon which he told them plainly that he knew they had.' A conference ensued, and, on the next day, they 'conducted him to the tower, and then into a dark vault, where he found a great quantity of very old and valuable Syriac MSS. He selected six quarto volumes, and took them to the superior's room. He was next shown a room in the tower, where he found a number of Coptic and Arabic MSS., principally liturgies, with a beautiful copy of the *Gospels*. He then asked to see the rest. The monks looked surprised to find he knew of others, and seemed at first disposed to deny that they had any more, but at length produced the key of the apartment where the other books were kept, and admitted him. After looking them over, he went to the superior's room, where all the priests were assembled, fifteen or sixteen in number; one of them brought a Coptic and Arabic *Selim*, or *Lexicon*, which Mr.

TATTAM wished to purchase ; they informed him they could not part with it, but consented to make him a copy. He paid for two of the Syriac MSS. he had placed in the superior's room, for the priests could not be persuaded to part with more. . . . The superior would have sold the Dictionary, but was afraid, because the Patriarch had written in it a curse upon any one who should take it away.' [It was the same volume which had been vainly coveted by Mr. CURZON, as well as by several preceding travellers, and of which he tells us he 'put it in one of the niches of the wall, where it remained about two years, when it was purchased and brought away for me by a gentleman at Cairo.'] 'In the Convent of El Baramous,' continues Miss PLATT, 'Mr. TATTAM found about one hundred and fifty Coptic and Arabic liturgies, and a very large Dictionary in both languages. In the tower is an apartment, with a trap-door in the floor, opening into a dark hole, full of loose leaves of Arabic and Coptic manuscripts.' At the Monastery of Amba-Bichoi, Mr. TATTAM saw a lofty vaulted room, so strewn with loose manuscripts as scarcely to afford a glimpse of the floor on which they lay, 'in some places a quarter of a yard deep.' At Macarius Convent a similar sight presented itself, but of these Mr. TATTAM was permitted to carry off about a hundred.

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As the reader may well imagine, the charms of the Syriac MSS. had made too deep an impression on Mr. TATTAM's heart to admit of an easy parting. Many were the longing, lingering looks, mentally directed towards them. Almost at the moment of setting out on his return to Cairo, he added four choice books to his previous spoils. In February, he resolved to revisit the convents, and once more to ply his most persuasive arguments. He was manfully seconded by his Egyptian servant, MAHOMMED, whose

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ISTS AND
EXPLORERS.

latt's
ournal;
bridged, as
bove.

favourite methods of negotiation much resembled those of Mr. CURZON. 'The Archdeacon soon returned,' says Miss PLATT, 'followed by MAHOMMED and one of the Bedouins, bearing a large sack full of splendid Syriac MSS. on vellum. They were safely deposited in the tent.' At Amba-Bischoi a successful bargain was struck for an old *Pentateuch* in Coptic and Arabic, and a beautiful Coptic *Evangelary*. On the next day, 'Mahommed brought from the priests a Soriana, a stupendous volume, beautifully written in the Syriac characters, with a very old worm-eaten copy of the *Pentateuch* from Amba-Bischoi, exceedingly valuable, but not quite perfect.' The remainder of the story, or rather the greater part of what remains, must here be more concisely told than in the words of the reviewer.

The manuscripts which Mr. TATTAM has thus obtained, in due time arrived in England. Such of them as were in the Syriac language were disposed of to the Trustees of the British Museum. . . Forty-nine manuscripts of extreme antiquity, containing some valuable works long since supposed to have perished, and versions of others written several centuries earlier than any copies of the original texts now known to exist, constituted such an addition as has been rarely, if ever, made at one time to any Library. The collection of Syriac MSS. procured by Mr. RICH had already made the Library of the British Museum conspicuous for this class of literature; but the treasure of manuscripts from Egypt rendered it superior to any in Europe.

From the accounts which Lord PRUDHOE, Mr. CURZON, and Mr. TATTAM had given of their visits to the Monastery of the Syrians, it was evident that but few of the manuscripts belonging to it had been removed since the time of ASSEMANI; and probable that no less a number than

nearly two hundred volumes must be still remaining in the hands of the monks. Moreover, from several notes in the manuscripts . . already brought to England, it was certain that most of them must be of very considerable antiquity . . . In several of these notices, MOSES of Tecrit states that, in the year 932, he brought into the convent from Mesopotamia about two hundred and fifty volumes. As there was no evidence whatever to show that even so many as one hundred of these MSS. had ever been taken away (for those which were procured for the Papal Library by the two ASSEMANI, added to those which Mr. CURZON and Mr. TATTAM had brought to England, do not amount to that number), there was sufficient ground for supposing that the Convent of the Syrians still possessed not fewer than about one hundred and fifty volumes, which, at the latest, must have been written before the tenth century. Application, accordingly, was made by the Trustees to the Treasury; a sum was granted to enable them to send again into Egypt, and Mr. TATTAM readily undertook the commission. The time was most opportune. Had much more delay been interposed, these manuscripts, which, perhaps, constitute the greatest accession of valuable literature which has been brought from the East into Europe since the taking of Constantinople, would, in all probability, have been now the pride of the Imperial Library at Paris.

Mr. TATTAM thought he could work most effectively through the influence of a neighbouring Sheikh with the superior of the convent. By which means he obtained, after some delays, a promise that all the Syriac MSS. should be taken to the Sheikh's house, and there bargained for. 'My servant,' he says, 'had taken ten men and eight donkeys from the village; had conveyed them, and already bargained for them, which bargain I confirmed. That night

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TREASURY
GRANT, IN
1841, FOR
FURTHER RE-
SEARCHES.

*Quart.
Review,*
as before.

MR.
TATTAM'S
EXPEDITION
TO NITRIA
IN 1842.

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TISCHENDORF'S VISIT
IN 1844.

we carried our boxes, paper, and string, and packed them all. . . . Before ten in the morning they were on their way to Alexandria.' But, as will be seen in the sequel, the monks were too crafty for Mr. TATTAM to cope with.

In 1844, TISCHENDORF visited the monasteries already explored by CURZON and TATTAM. His account reproduces the old characteristics:—'Manuscripts heaped indiscriminately together, lying on the ground, or thrown into large baskets, beneath masses of dust. . . . The excessive suspicion of these monks renders it extremely difficult to induce them to produce their MSS., in spite of the extreme penury which surrounds them. . . . But much might yet be found to reward the labour of the searcher.'

In truth, the monks, poor and simple as they sometimes seemed to be, had taken very sufficient care to keep enough of literary treasures in their hands to reward 'further researches.' Nearly half of their collection seems to have been withheld.

PACHO'S
NEGOTIA-
TION FOR
THE RECO-
VERY OF THE
MSS. WITH-
HELD BY THE
MONKS OF
ST. MARY
DEIPARA.

See page 622,
in this
Chapter.

A certain clever Mr. PACHO now entered on the scene as a negotiator for the obtainment or recovery of the missing 'treasures of the tombs.' They had been virtually purchased before, but the Lords of the Treasury very wisely re-opened the public purse, and at length secured for the Nation an inestimable possession. The new accession completed, or went far towards completing, many MSS. which before were tantalizingly imperfect. It supplied a second ancient copy of the famous Ignatian *Epistles* (*to St. Polycarp, to the Ephesians, and to the Romans*); many fragments of palimpsest manuscripts of great antiquity, and among them the greater part of St. Luke's *Gospel* in Greek; and about four thousand lines of the *Iliad*, written in a fine square uncial letter, apparently ~~not~~ later than the sixth century. The total number of volumes thus added to the

previous Nitrian Collections were calculated, roundly, to be from a hundred and forty to a hundred and fifty.

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EXPLORERS.
WILLIAM
CURETON
AND HIS
LABOURS IN
ORIENTAL
LITERATURE.

That the rich accession to our sacred literature, thus made amidst many obstacles, should be turned speedily to public advantage, two conditions had to be fulfilled. Skilful labour had first to be employed in the arrangement of a mass of fragments. Scholars competently prepared, by previous studies in Oriental literature and more especially in Syriac, must then get to work on their transcription, their gloss, and their publication. It could scarcely have been expected, beforehand, that any one man would be able to undertake both tasks, and to keep them, for some years to come, well abreast. The fact, however, proved to be so. The right man was already in the right place for the work that was to be done.

The late WILLIAM CURETON had entered the service of the Trustees of the British Museum in 1837, at the age of twenty-nine, when he had been already for about eight years in holy orders. He was a native of Westbury, in Shropshire. His education, begun at Newport School, had been matured at Christ-Church, Oxford. He had been just about to enter himself at Christ-Church in the ordinary way, when his father died, suddenly, leaving the family fortunes under considerable embarrassment. CURETON, and a brother of his, showed the metal they were both made of, by instantly changing their youthful plans. That the whole of the diminished patrimony might be at their mother's sole disposal, William CURETON went to Oxford as a servitor. His brother, instead of waiting for his expected commission in the Army, enlisted as a private dragoon. And certainly, in the issue, neither of these young men lost any 'dignity'—in any sense of that word—

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on account of the step so unselfishly taken at their start in life.

CURETON'S
ENTRANCE
INTO THE
BRITISH
MUSEUM.

William CURETON began his literary labours as a Coadjutor-Under-Librarian in old Bodley. Dr. GAISFORD introduced him to Dr. BANDINEL, in 1834, with the words:—‘I bring you a good son. He will make a good librarian.’ It was at Oxford that he laid the substantial foundation of his Oriental studies. After three years, he followed the fashion already set him by some of the best and ablest officers the Bodleian has ever had—ELLIS, BABER, and H. O. COXE, for example—by transferring, for a time, his services from the great Library of Oxford to that of London. His first (or nearly his first) Museum task was to set to work on the cataloguing of the Arabic and Persian MSS. In 1842, he began his earliest Oriental publication (undertaken for the ‘Oriental Text Society,’ to be mentioned presently), namely, AL SHARASTANI’S ‘*Book of Religious and of Philosophical Sects.*’

At the British Museum, he became quite as notable for the amiability of his character, and the genial frankness of his manners, as for his scholarly attainments and his power of authorship. I have a vivid recollection of my own introduction to him, in the February of 1839, and of the impression made on me by his kindly and cordial greeting. When I noted that pleasant face, which beamed with good nature as well as with intellect, I instantly appreciated the force of the words used by my introducer: ‘Let me make you known,’ said he, ‘to my father-confessor.’ I thought the choice to be obviously a felicitous one. Not less vivid is my memory of the delight Mr. CURETON manifested on receiving, within the Museum *vaults*, the first importation from the Nitrian Desert. The sight of such a mass of torn, disorderly, and dirty fragments, would have appalled many

men not commonly afraid of labour, but to William CURETON the scholarly ardour of discovery made the task, from the first, a pleasure. When successive fresh arrivals gave new hope that many gaps in the manuscripts of earliest importation would, in course of time, be filled up, the laborious pleasure ripened into joy.

The collection, obtained by the long succession of labours already narrated, reached the British Museum on the first of May, 1843. When the cases were opened, very few indeed of the MSS. were perfect. Nearly two hundred volumes had been torn into separate leaves, and then mixed up together, by blind chance and human stupidity. It was a perplexing sight. But the eyes that looked on it belonged to a seeing head. Even into a little chaos like this, almost hopeless as at the first glance it seemed, the learning, assiduity, and patience of Mr. CHURTON gradually brought order. Of necessity, the task took a long time. First came the separation of the fragments of different works, and then the arrangement of the leaves into volumes, with no aid to pagination or catchwords. With translations of extant Greek works, the collection of their originals gave, of course, great help. But in a multitude of cases every leaf had to be read and closely studied.

Within about eighteen months of the reception of the MSS., Mr. CURETON had ascertained the number of volumes—reckoning books made up of fragments, as well as complete works—to amount to three hundred and seventeen, of which two hundred and forty-six were on vellum, and seventy on paper; all in Syriac or Aramaic, except one volume of Coptic fragments. With the forty-nine volumes previously acquired, an addition was thus made to the MS. Department of the National Library of three hundred and sixty-six volumes. Many of these volumes contain two,

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ISTS AND
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FRAGMEN-
TARY CON-
DITION OF
THE SYRIAC
MSS. IM-
PORTED IN
1843.

three, or four distinct works, of different dates, bound together, so that probably, in the whole, there were of manuscripts and parts of manuscripts, upwards of one thousand, written in all parts of Mesopotamia, Syria, and Egypt, and at periods which range from the year 411 to the year 1292. Of the specific character and contents of some of the choicest of these MSS., mention will be made hereafter.

For several years, the labour on the Syriac fragments did but alternate with that on the larger body of the Arabic MSS., a classed catalogue of which Mr. CURETON published in 1846,—only a month or two after he had contributed to the *Quarterly Review* a deeply interesting and masterly article on the Syriac discoveries. This paper was quickly followed by his first edition of the *Three Epistles of St. Ignatius* (I, to Polycarp; II, to the Ephesians; III, to the Romans). In an able preface, he contended that, of these genuine *Epistles*, all previous recensions were, to a considerable extent, interpolated, garbled, and spurious; and also that the other Ignatian *Epistles*, so-called, are entirely supposititious. In the year 1870 it need hardly be said either that this publication excited much controversy, or that competent opinion is still divided on some parts of the subject. But on two points there has never been any controversy whatever:—As an editor, William CURETON displayed brilliant ability; as a student of theology, he was no less distinguished by a single-minded search after truth. He was never one of those noisy controversialists of whom Walter LANDOR once said, so incisively,* that they were less angry with their opponents for withstanding the truth, than for doubting their own claims to be the channels and the

* In—unless a memory more than thirty years old deceive me—that noble masterpiece of English prose, the '*Citation of Shakespeare for Deer-stealing*' (1835).

champions of Truth. To his dying day, CURETON owned himself to be a learner—even in Syriac.

Within three years of the publication of his *Ignatius*, CURETON gave to the world his precious edition of the fragmentary *Festal Letters* of ATHANASIUS, which Richard BURGESS soon translated into English, and LASSOW into German. The Syriac version was one of its editor's earliest discoveries amongst the spoils of the Nitrian monasteries, and it was published at the cost of a new society, of which CURETON himself was the main founder. For the old Oriental publication society* limited itself, as its name imports, to the publication of translations. The new one—the claims of which to liberal support CURETON was never weary of vindicating—was expressly founded to print Oriental texts. This new body had his strongest sympathies, but he co-operated zealously with the 'Translation Fund' as well as with the 'Text Society.'

Among his other and early labours, was the publication of a Rabbinical Comment on the *Book of Lamentations*, and of the Arabic text of EN NASAFI's *Pillar of the Creed of the Sunnites* ('Umdat Akidat ahl al Sunnat wa al Tamaat'), both of which books were printed in 1843. After 1845, CURETON's literary labours were almost exclusively devoted to that Syriac field in which he was to be so large and so original a discoverer. The first distinctively public recognition of his services was his appointment as a Chaplain to the Queen, in 1847. Two years afterwards, he was made a Canon of Westminster and Rector of St. Margaret's. Thenceforward, his energies were divided. The charms of Syriac discovery were not permitted to obstruct the due performance of the appropriate work of a parish-priest; though it is much to be feared that they

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THE FOUN-
DATION
OF THE
ORIENTAL
TEXT SO-
CIETY.

* The Oriental Translation Fund.

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PAROCHIAL
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were but too often permitted to interfere, more than a little, with needful recreation and rest.

Among those of his parochial labours which demanded not a small amount of self-sacrifice were the rebuilding and the improved organization of the schools; the building of a district church—St. Andrew's—in Ashley Place; and the establishment of Working-Class Lectures, upon a wise and far-seeing plan.

FURTHER
CONTRIBUTIONS TO
LITERATURE.

MS. Addit.
14,640.
(B. M.)

In 1851, he gave to scholars the curious palimpsest fragments of HOMER from a Nitrian manuscript (now ADDIT. MS., 17,210), and, two years afterwards, the *Ecclesiastical History* of JOHN, Bishop of Ephesus. This was quickly translated into German by SCHÖNFEHLER, and into English by Dr. R. PAYNE SMITH. Then came the *Spicilegium Syriacum*, containing fragments of BARDESANES, of MELITO of Sardes, and the inexpressibly precious fragments of an ancient recension of the Syriac *Gospels*, believed by CURETON to be of the fifth century, and offering considerable and most interesting divergences from the Peshito version.

In a preface to these evangelical fragments of the fifth century, their editor contends that they constitute a far more faithful representation of the true Hebrew text than does the Peshito recension, and that the remark holds good, in a more especial degree, of the *Gospel of St. Matthew*. This publication appeared in 1858.

LABOUR AND
ITS REWARDS
IN FRESH
LABOURS.

Enough has been said of these untiring labours to make it quite intelligible, even to readers the most unfamiliar with Oriental studies, that their author had become already a celebrity throughout learned Europe. As early as in 1855, the Institute of France welcomed Dr. CURETON, as one of their corresponding members, in succession to his old master, GAISFORD, of Christ-Church. In 1859, the Queen conferred on him a distinction, which was especially

appropriate and dear to his feelings. He became 'Royal Trustee' of that Museum which he had so zealously served as an Assistant-Keeper of the MSS., up to the date of his appointment to his Westminster parish and canonry. No fitter nomination was ever made. Unhappily, he was not to be spared very long to fill a function so congenial.

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Yet one other distinction, and also one other and most honourable labour, were to be his, before another illustrious victim was to be added to the long list of public losses inflicted on the country at large by the gross mismanagement, and more particularly by what is called—sardonically, I suppose—the 'economy' of our British railways. CURETON's life too, like some score of other lives dear to literature or to science, was to be sacrificed under the car of our railway Juggernaut.

In 1861, he published, from another Nitrian manuscript, EUSEBIUS' *History of the Martyrs in Palestine*. Early in 1863, he succeeded the late Beriah BOTFIELD in the Chair of the Oriental Translation Fund. On the twenty-ninth of May, of the same year, a railway 'accident' inflicted upon him such cruel injuries as entailed a protracted and painful illness of twelve months, and ended—to our loss, but to his great gain—in his lamented death, on the seventeenth of June, 1864.

THE
REMOVAL,
AND ITS
CIRCUM-
STANCES.

He died where he was born, and was buried with his fathers. The writer of these poor memorial lines upon an admirable man well remembers the delight he used to express (thirty years ago) whenever it was in his power to revisit his birthplace, and knows that the delight was shared with the humblest of its inhabitants. Dr. CURETON was one of those genuine men who (in the true and best sense of the words) are not respecters of persons. He had a frank, not a condescending, salutation for the lowliest ac-

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quaintances of youthful days. And those lowliest were not among the least glad to see his face again at his holiday-visits; nor were they among the least sorrowful to see it, when it bore the fatal, but now to most of us quite familiar, traces of victimism to the mammon-cult of our railway directors.

THE ARCHÆ-
OLOGICAL
EXPLORA-
TIONS IN THE
LEVANT.

Just as we have to go very far back indeed in the history of the Manuscript Department of the British Museum, in order to find an accession quite as notable as are—taking them as a whole—the manuscripts of the Nitrian monasteries, so have we also to do in the history of the several Departments of Antiquities, in order to find any parallel to the acquisitions of monuments of art and archæology made during the thirty years between 1840 and 1870. In point of *variety* of interest, in truth, there is no parallel at all to be found.

In archæology, however—as in scientific discovery, or in mechanical invention—every great burst of new light will be seen, if we look closely enough, to have had its remote precursive gleams, howsoever faint or howsoever little noticed they may have been.

Austen Henry LAYARD, for example, is a most veritable ‘discoverer.’ Nevertheless, the researches of LAYARD link themselves with those of Claudius RICH, and with the still earlier glimpses, and the mere note-book jottings, of Carsten NIEBUHR, as well as with the explorations of LAYARD’s contemporary and most able French fellow-investigator, Monsieur BOTTA. In like manner, Nathan DAVIS is the undoubted disinterrer of old Carthage, but the previous labours of the Italian canon and archæologist SPANO, of Cagliari, and those of the French geographers DE DREUX and DUREAU DE LA MALLE, imperfect as they all were,

helped to put him upon the quest which was destined to receive so rich a reward.

It is obvious, therefore, that a tolerably satisfactory account of the researches of the renowned archæologists mentioned at the head of this chapter must be prefaced with some notices of much earlier and much less successful labours than theirs; and a thorough account would need greatly more than that. But, at present, I cannot hope to give either the one or the other. Rapid glances at the recent investigations are all that, for the moment, are permitted me, and for the perfunctory manner of these I shall have to make not a little demand on the reader's indulgence. The subject-matter is rich enough to claim a volume to itself; nor would the story be found to lack well-sustained and varied interest, even if retold at large.

The first inquiries and explorations in *Lycia* of Sir Charles FELLOWS began several years earlier than those in *Assyria* of Mr. Austen LAYARD, but an intelligible narrative of what LAYARD did, in 1845, must needs start with a notice, be it ever so brief, of what BOTTA had been doing in 1842. The Lycian excavations were also effectively begun in 1842. They were, in fact, contemporaneous with the first excavations at Nineveh. I begin, therefore, with the closely-linked labours of BOTTA and of LAYARD, prefacing them with a glance at the previous pursuits and aims in life of our distinguished fellow-countryman.

Austen Henry LAYARD is an Englishman, notwithstanding his birth in Paris (5th of March, 1817), and his descent from one of the many Huguenot families who (in one sense) do honour to France for their sufferings for conscience sake, and who (in many more senses than one) do honour to England by the way in which zealous and persevering exertions in the service of their adopted country have

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HENRY
LAYARD
AND HIS
EARLY
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enabled them to pluck the flowers of fame, or of distinction, from amidst the sharp thorns of adversity. Austen LAYARD is the grandson of the honoured Dr. LAYARD, Dean of Bristol, and he began active life, whilst yet very young, in a solicitor's office in the City of London. But he had scarcely reached twenty-two years of age before family circumstances enabled him to gratify a strong passion for Eastern travel. Archæology had no share, at first, in the attractions which the Levant presented to his youthful enterprise. But a fervid nature, a good education, and a wonderful power of self-adaptation to new social circumstances, made the mind of the young traveller a fitting seedplot for antiquarian knowledge, whenever the opportunity of acquiring it should come.

THE
JOURNEY
THROUGH
ASIA MINOR
AND SYRIA
IN 1839-1840

To a man of that stamp it would be impossible that he should tread near those ancient ruins, every stone of which must needs connect itself with some 'reverend history' or other—when the discerning eye should at length pore upon it and ponder it—without the ambition stirring within him to make at least an earnest attempt to explore and to decipher. To this particular man and his companion in travel, Fortune was propitious, by dint of her very parsimony. As he says himself: 'No experienced dragoman measured our distances or appointed our stations. We were honoured with no conversations by pashas, nor did we seek any civilities from governors. We neither drew tears nor curses from the villagers by seizing their horses, or searching their houses for provisions; their welcome was sincere; their scanty fare was placed before us; we ate, and came, and went in peace.'

*Nineveh and
its Remains*
(1849), vol. i,
p. 2.

It was almost thirty years ago—about the middle of April, 1840—that Mr. LAYARD looked upon those vast ruins on the east bank of the Tigris, opposite Mósul, which

include the now famous mounds of Konyunjik and of Nebbi Yunus. Having gazed on them with an incipient longing—even then—to explore them thoroughly, he and his companion rode into the desert, and looked with new wonder at the great mound of Kàlâh Sherghat, the site of which is by some geographers identified with the Assur of the book Genesis.* After that hasty and tantalising visit, in the spring of 1840, LAYARD did not again see Mósul until the summer of 1842, when he was again travelling Tatar, and hurrying to Constantinople. In the interval, he had often thought of his early purpose, and had talked of it to many travellers. Now, in 1842, he heard that what he had hitherto been able only to contemplate, as the wished-for task of the future, Monsieur BOTTA, the new French Consul at Mósul, had, for some months, been actually working upon; although, as yet, with very small success. Our countryman encouraged the French Consul in his undertaking, and presently learned that by him the first real monument of old Assyria had been uncovered. This primary discovery was not made at Kouyunjik, but at Khor-sabad, near the river Khauser, many miles away from the place at which the first French excavations had been made, early in 1842.

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GISTS AND
EXPLORES.

BOTTA'S
FIRST DIS-
COVERIES.

The delighted emotions of Monsieur BOTTA, when he found himself, very suddenly, standing in a chamber in which—to all probability—no man had stood since the Fall of Nineveh, and saw that the chamber was lined with sculptured slabs of 'gypsum-marble' or alabaster, full of historic scenes from the wars and triumphs of Assyria, a

* Comp. 'Asshur builded Nineveh, and the city Rehoboth, and Calah.'—*Gen. x, 11*. Mr. Layard quotes this passage, in *Nineveh and its Remains* (vol. i, p. 4, edit. 1849), and seems to identify 'Kalah Sherghat' as retaining its ancient name.

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 TS AND
 FLORES.

reader can better imagine than a writer can describe. BOTTA himself rather indicates than depicts them, in the deeply interesting letters which he speedily addressed to his friend MOHL at Paris (and which by MOHL were not less promptly published in the *Journal Asiatique*, to be within a month or two pondered and wondered over by almost every archæologist in Europe). The delight, and also the surprise, were enhanced when the discoverer saw that almost every slab had a line of wedge-shaped characters carved above it, giving hope of history in legible inscriptions, as well as history in ruins. For, unhappily, nearly all the sculptures *first* discovered at Khorsabad were fractured. The durability of the Assyrian style of building had brought about the defacement of the sculptured records. The walls were formed of blocks of gypsum, backed and lined, so to speak, with enormous masses of clay. When the weight of such large earth-banks pressed down upon the sculptured slabs, these were thrust from their place. Many that were still in position, when first seen, fell, or crumbled, as the explorer was looking at them. He had to shore-up and underpin, as he went on; and to do this by unpractised hands. Else, the more diligent his excavations, the more destructive they would have been of the very end he had in view.

LAYARD was at Constantinople when the news came of M. BOTTA's increasing successes. His detention there had been unexpected, as well as unavoidable. But he wrote to England without delay. He had a foresight that BOTTA would not lack encouragement in France. He felt no unworthy jealousy on account of the fact that it was a Frenchman who was now disinterring historic treasures of a hitherto unexampled kind, and who was rapidly

securing historic fame for himself.* Mr. LAYARD knew—few men just then knew more fully—that in all matters of learning and of discovery the gains of France are the gains of the world. For the staunchest of John Bulls amongst us must acknowledge that in the arts of scientific dissemination and exposition a Frenchman (other things being equal) has usually twice the expertness of an Englishman. But he was naturally desirous that France should not have *all* the glory of Assyrian discovery. What, then, was the reception with which his first overtures were met? ‘With a single exception,’ in the person of his London correspondent, ‘no one,’ he tells us, ‘in England’ : . . . ‘seemed inclined to assist or take any interest in such an undertaking.’

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LAYARD'S
OVERTURES
TO THE
BRITISH
GOVERN-
MENT.

*Nineveh and
its Remains,*
vol. i, p. 10.

What, on the other hand, were the encouragements given to the French explorer by the Government and the Nation of France? They were large; they were ungrudgingly given; and they were instantaneously sent. In Mr. LAYARD's words: ‘The recommendation was attended to with that readiness and munificence which [has] almost invariably distinguished the French Government in undertakings of this nature. Ample funds to meet the cost of extensive excavations were at once assigned to M. BOTTA, and an artist of acknowledged skill was placed under his orders, to draw such parts of the monuments discovered as could not be preserved or removed.’ Who will wonder

LIBERAL AID
EXTENDED
TO M. BOTTA
BY THE
FRENCH
GOVERN-
MENT.

* Nor was there any petty or unworthy jealousy in the distinguished French explorer. ‘During the entire period of his excavations,’ writes Mr. Layard, ‘M. Botta regularly sent me, not only his [own] descriptions, but copies of the inscriptions, without exacting any promise as to the use I might make of them. That there are few who would have acted thus liberally, those who have been engaged in a search after Antiquities in the East will not be inclined to deny.’—*Nineveh and its Remains*, vol. i, p. 14.

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 NOTHING
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 CONTRASTS
 -ENGLAND
 AND FRANCE.

that at first it seemed as though France would carry off all the stakes, and England have no place at all in the archæological race?

Mr. LAYARD, however, was otherwise minded. And he found, presently, a powerful helper in the person of the British Ambassador at Constantinople, Sir Stratford CANNING (now Lord Stratford de Redcliffe). Had it not been for the union, in that ambassador, of a large intellect, a liberal mind, and a strong will, and also for the *absence*, in him, of that shrinking from extra-official responsibilities which in so many able men has often emasculated their ability, Mr. LAYARD's efforts, earnest and unremitting as they were, would assuredly have been foiled.

The reader will perceive that for what was achieved, in 1845 and in the subsequent years, on the banks of the Tigris, the British public owe a debt of gratitude to Lord STRATFORD DE REDCLIFFE, the encourager of the enterprise, as well as to Mr. LAYARD, its originator.

But neither does this fact, nor does the like of it, five years earlier, in the help given by Lord PONSONBY to the Lycian researches of Sir Charles FELLOWS, invalidate or weaken the remark I have ventured to make (on pages 348 ; 381, of the present volume, and elsewhere) about the discreditable and long-continued apathy of our Foreign Office in matters of art and literature ; especially if we compare on that head British practice with French practice. Perhaps, at first blush, it might be thought somewhat presumptuous, in a private person, to remark so freely on what seem to him the shortcomings of statesmen. But it has to be borne in mind that, in such cases as this, outspoken criticism is rather the expression of known public opinion, than of mere individual judgment. The one writer, how humble soever, is very often the mouthpiece of

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the thoughts of many minds. Nor is other warrant for such criticism lacking.

Three years after beginning his excavations at Nimroud, Mr. LAYARD himself wrote thus (from Cheltenham) :—‘ It is to be regretted that proper steps have not been taken for the transport to England of the sculptures discovered at Nineveh. Those which have already reached this country, and (it is to be feared) those which are now on their way, have consequently suffered *unnecessary* injury ; yet, . . . they are almost the only remains of a great city and of a great nation.’

Part of the injury now observable in the Assyrian sculptures of the British Museum was, of course, inseparable from circumstances attending the discovery. Besides the injury already spoken of—from the pressure of the earth-banks—all the low-reliefs of one great palace had suffered from intense heat. From this cause, Mr. LAYARD’s experiences recall, in one particular, the impressive accounts we have all read of the opening of ancient tombs in Egypt and in Italy. The fortunate excavator suddenly beheld a kingly personage, in fashion as he lived. The royal forehead was still encircled by a regal crown. The fingers were decked with rings ; the hand, mayhap, grasped a sceptre. But whilst the discoverer was still gazing in the first flush of admiration, the countenance changed ; the ornaments crumbled ; the sceptre and the hand that held it alike became dust. So it was, at times, at Nimroud. Some of the calcined slabs presented, for a moment, their story in its *integrity*. Presently, they fell into fragments.

None the less, when the reader goes into the Kouyunjik Gallery ; *looks* at the sculptures from SENNACHERIB’s palace ; *observes* the innumerable ‘joinings,’ and then glances at his *official ‘Guide’* (which tells him, at page 85,

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its Remains*,
vol. i, p. xiii.

MIXED
NATURE OF
THE CAUSES
OF THE
MUTILA-
TIONS OB-



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REMARKABLE
IN THE
MUSEUM
SCULPTURES
FROM
ASSYRIA.

‘many single slabs reached this country in three hundred or four hundred pieces’), he is bound for truth’s sake to remember that, whilst some of the breakage is ascribable to the action of fire at the time of the Fall of Nineveh, another portion of it is ascribable to the want or absence of action, on the part of some worthy officials in the public service of Britain, just twenty-five centuries afterwards.

With Sir Stratford CANNING’s help, and with the still better help of his own courage and readiness of resource, Mr. LAYARD surmounted most of the obstacles which lay in his path. There was a rich variety of them. To quote but a tithe of his encounters with Candian pashas, Turcoman navvies, Abou-Salman-visitors, and Mósul cadis and muftis, would ensure the reader’s amusement beyond all doubt; but the temptation must be overcome. Happily, the original books are well known, though the anecdotes are more than racy enough to bear quotation and requotation.

LAYARD’S
FIRST DIS-
COVERY,
28th Nov.,
1845.

Two incidents of the first explorations (1845-46) must needs be told. The earliest discovery was made on the twenty-eighth of November. The indications of having approached, at length, a chamber lined with sculpture, rejoiced the Arab labourers not less than it rejoiced their employer. They kept on digging long after the hour at which they were accustomed to strike work. The slab first uncovered was a battle scene. War chariots drawn by splendidly equipped horses contained three warriors apiece, in full career. The chief of them (beardless) was clothed in complete mail, ‘and wore a pointed helmet on his head, from the sides of which fell lappets covering the ears, the lower part of the face, and the neck. The left hand (the arm being extended) grasped a bow at full stretch; whilst the right, drawing the string to

the ear, held an arrow ready to be discharged. A second warrior urged, with reins and whip, three horses to the utmost of their speed. . . . A third, without helmet and with flowing hair and beard, held a shield for the defence of the principal figure. Under the horses' feet, and scattered about, were the conquered, wounded by the arrows of the conquerors. I observed with surprise the elegance and richness of the ornaments, the faithful and delicate delineation of the limbs and muscles, both in the men and horses, and the knowledge of art displayed in the grouping of the figures and the general composition. In all these respects, as well as in costume, this sculpture appeared to me, not only to differ from, but to surpass, the bas-reliefs of Khorsabad.'

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GISTS AND
EXPLORERS.

*Ninewa and
its Remains*
(1849), vol. i,
p. 41.

Thus cheered, the work of digging went on with fresh vigour, and in new directions. Parts of a building which had suffered from decay, not from fire, were at length uncovered. Slabs of still greater beauty were disclosed. 'I now thought,' says the explorer, 'I had discovered the earliest palace of Nimroud.'

On the morning after the discovery of these new and more choice sculptures—middle of February, 1846—Mr. LAYARD rode away from the mound to a distant Arab encampment—wisely cultivating, as was his manner, a good understanding with a ticklish sort of neighbours. Two early Arabs, from this camp, had already paid a morning visit to the mound. They hastened back at a racing pace. Before they could well pull up their horses, or regain their own Oriental composure, the riders shouted at sight of Layard: 'Hasten, O Bey, to the diggers. They have found great NIMROD himself. Wallah! it is wonderful, but it is true! We have seen him with our eyes.'

The 'Bey' did not wait for lucid explanations; but

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 FROM
 UP OF
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 S AND
 LORENS.
 . p. 65.
 nary.

urged his horse to emulate the speed with which the grateful, though mysterious, tidings had been brought to him. No sooner had he entered the new trench at the mound, than he saw a splendidly sculptured head, the form of which assured him at a glance that it must belong to a winged bull or lion like to those of Persepolis and of Khorsabad. Its preservation was perfect, its features sharply cut. The Arab workmen stood looking at it with intent and fear-expressing eyes—but with open palms. The first word that came from their lips begged a ‘back-sheesh,’ in honour of the auspicious occasion. The terror of one of them, only, had led him to scamper at full speed to his tent, that he might hide himself from the frightful monster whose aspect seemed to threaten vengeance on those rash men who had dared to disturb his long repose, in the bowels of the earth.

p. 66.

Scarcely had Mr. LAYARD glanced at ‘NIMROD’ before he found that more than half the tribe whose encampment he had just left had followed hard at his heels. They were headed by their Sheikh. It would be difficult to depict, in few words, the conflict of their feelings. Admiration, terror, anger, had each a part in the emotion which was evinced, no less in their gestures than in their words. ‘There is no God but God, and MAHOMED is his prophet! This is not the work of men’s hands, but of those infidel giants whom the Prophet—peace be with him!—has said, that “they were higher than the tallest date-tree.” This is one of the idols which NOAH—peace be with him!—cursed before the Flood.’ Such were the words of Sheikh ABD-UR-RAHMAN himself. He showed great reluctance, at first, to enter the trench. But when once in, he examined the image with great and continued earnestness. All his followers echoed his verdict.

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But the townspeople of Mósul were more difficult to deal with. The Cadi called a meeting of the Mufti and the Ulema, to discuss the most effectual protest against such an atrocious violation of the Koran as that committed by the unbelieving explorer and his mercenary labourers. Their notions about NIMROD were very vague. Some thought him to have been an ancient true-believer; others had a strong misgiving that he, like his unearther, was but an infidel. They were all clear that the digging must be stopped. It tasked all Mr. LAYARD's skill, experience, and force of character, to surmount these new difficulties. When they had been at length overcome—with the brilliant results known now to most Englishmen—he had to face the enormous difficulties of transport. The great human-headed lions he was obliged to leave in their original position. A multitude of smaller sculptures (many of them reduced in bulk by sawing) were safely brought to England. The first arrivals came in 1847.* In 1849 and in 1850, the excavations in the mounds first opened were vigorously resumed, and new researches were made in several directions. Early in 1850, the explorers buckled to the task of removing the lions. That chapter in Mr. LAYARD's familiar narrative is not the least interesting one.

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Nineveh and
its Remains;
passim.

* It is a slight blemish in Mr. Layard's otherwise admirable books that they are loose in the handling of dates. It is sometimes necessary to turn over hundreds of pages in order to be sure of the year in which a particular excavation was made, or in which an interesting incident occurred. Sometimes, again, there is an actual conflict of dates, *e. g.* *Discoveries in the Ruins, &c.* (1853), p. 3, 'After my departure from Mósul in 1847,' and again, p. 66, 'On my return to Europe in 1847;' but at p. 162, we read: 'Having been carefully covered up with earth, previous to my departure in 1848, they [the lions] had been preserved,' &c. I mention this simply because it is possible that error may thus, once or twice, have crept into the marginal dates given above, though pains has been taken about these.



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ISTS AND
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*Discoveries in
the Ruins of
Assur and
Babylon*
1853),
p. 163, 165;
1859; seqq.
p. 1849.

The explorations partially interrupted in 1847 were resumed in 1849. From the October of that year until April, 1851, they were carried on with even more than the old energy, for the means and appliances were more ample, and the encouragements drawn from success followed each other in far quicker succession.

The suspension had been but partial, for Mr. Hormuzd RASSAM, then British Vice-Consul at Mósul, had been empowered to keep a few men still digging at Kouyunjik. He had there unearthed several new sculpture-lined chambers of no small interest. But at Nimroud nothing worthy of mention had been done during LAYARD's absence. That was now his first object. Kouyunjik, however, for a long time gave the best yield.

149,
et. and Nov.

In December the south-east façade of the Kouyunjik Palace was uncovered. It was found to be a hundred and eighty feet in length, and contained, among other sculptures, ten colossal bulls and six human figures. The accompanying inscriptions contained the early annals of SENNACHERIB, and of his wars with MERODACH BALADAN.*

Presently, the labours on the north-west palace at Nimroud were also richly rewarded. The somewhat higher antiquity of that building, as compared with the homogeneous structures of Kouyunjik and Khorsabad, had already impressed itself with the force of conviction on Mr. LAYARD's individual mind. The fact now became manifest to all eyes that had the capacity to see.

These Nimroud monuments belong,—according to the opinion of the best archæologists,—most of them, to the

* The Berodach-Baladan of 2 Kings, xx, 12, who 'sent letters and a present unto Hezekiah, when he had heard that Hezekiah had been sick.'

eighth, some of them, however, to the earlier part of the seventh centuries *B.C.* They now occupy the most central of the Assyrian Galleries in the British Museum. The monuments of Kouyunjik and of Khorsabad are probably but little anterior to the supposed date (625 *B.C.*) of the destruction of Nineveh. These are exhibited in galleries adjacent to the 'Nimroud Central Saloon.' To describe only a few of them in connection with the interesting circumstances of their respective disclosures would demand another chapter. A word or two, however, must be given to one among the earlier discoveries (October, 1846), and to one among the latest of those made (in the spring of 1851), whilst Mr. LAYARD himself remained in the neighbourhood of Mósul.

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Chap. IV.
ANOTHER
GROUP OF
ARCHÆOLO-
GISTS AND
EXPLORES.

At Nimroud many trenches had, in those early days, been opened unprofitably. Mr. LAYARD doubted whether he ought to carry them further. Half inclined to cease, in this direction, he resolved, finally, that he would not abandon a cutting on which so much money and toil had been spent, until the result of yet another day's work was shown. 'I mounted my horse,' he says—to ride into Mósul—'but had scarcely left the mound when a corner of black marble was uncovered, lying on the very edge of the trench.' It was part of an obelisk seven feet high, lying about ten feet below the surface. Its top was cut into three gradines, covered with wedge-shaped inscriptions. Beneath the gradines were five tiers of sculpture in low-relief, continued on all sides. Between every two tiers of sculpture ran a line of inscription. Beneath the five tiers, the unsculptured surface was covered with inscriptions. These, as subsequent researches have shown, contain the Annals of SHAL-MANESER, King of Assyria, during thirty-one years towards the close of the ninth century before our Lord. The tribu-

DISCOVERY
OF THE
BLACK-
MARBLE
OBELISK,
1846,
October
(found in
centre of
the great
mound).

*Nineveh and
its Remains,*
vol. i, p. 345.
(1849 edit.)

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PART IV.
NOTES
GROUP OF
ARCHÆOLOG-
ISTS AND
EXPLORERS.
ibid., 346.

tributaries of the great monarch are seen in long procession, bearing their offerings. In the appended cuneiform record of these tributaries are mentioned JEHU, 'of the House of OMRI,' and his contemporary HAZAEL, King of Syria. Well may the proud discoverer call his trophy a 'precious relic.'

*

We now leap over more than four eventful years. Mr. LAYARD is about to exchange the often anxious but always glorious toils of the successful archæologist, for the not less anxious and very often exceedingly inglorious toils of the politician. He will also henceforth have to exchange many a pleasant morning ride and many a peaceful evening 'tobacco-parliament' with Arabs of the Desert, for turbulent discussions with metropolitan electors, and humble obeisances in order to win their sweet voices. Just before he leaves Mósul come some new unearthings of Assyrian sculpture, to add to the welcome tidings he will carry into England.

HE DIS-
COVERIES AT
OYTUNJIK
IN THE
SPRING OF
1851.

He found, he tells us—in one of the closing chapters of his latest book—that to the north of the great centre-hall four new chambers, full of sculpture, had been discovered. On the walls of a grand gallery, ninety-six feet by twenty-three, was represented the return of an Assyrian army from a campaign in which they had won loads of spoil and a long array of prisoners. The captured fighting men wore a sort of Phrygian bonnet reversed, short tunics, and broad belts. The women had long tresses and fringed robes. Sometimes they rode on mules or were drawn—by men as well as by mules—in chariots. The captives were the men and women of Susiana. The victor was SENNACHERIB.

discoveries
'Nineveh
and Babylon
(dit. 1853),
p. 582-584.

In several subsequent years—1853, 1854, 1855, when most Englishmen were intently acting, or beholding with

ANOTHER GROUP OF ARCHÆOLOGISTS, ETC. 641

suspended breath, the great drama in the Crimea—a famous compatriot was continuing the task so nobly initiated by Austen LAYARD. Sir Henry RAWLINSON (made by this time Consul-General at Baghdad) carried on new excavations, both at Nimroud and at Kouyunjik. In these he was ably assisted by Mr. W. K. LOFTUS, as well as by Mr. Hormuzd RASSAM, the helper and early friend of LAYARD, and (in the later stages) by Mr. TAYLOR. Another obelisk, with portions of a third and fourth; thirty-four slabs sculptured in low-relief; one statue in the round; and a multitude of smaller objects, illustrating with wonderful diversity and minuteness the manners and customs, the modes of life and of thought, as well as the wars and conquests, the luxury and the cruelty, of the old Assyrians, were among the treasures which, by the collective labour of these distinguished explorers, were sent into Britain. Another 'recension,' so to speak, of the early Annals of SENNACHERIB, King of Assyria, inscribed upon a cylinder, was not the least interesting of the monuments found under the direction of Sir Henry RAWLINSON, whose name had already won its station—many years before his consulship at Baghdad—beside those of GROTEFEND, of BURNOUF and of LASSEN, in the roll of those scientific investigators by whose closet labours the researches and long gropings of the RICHES, the BOTTAS, and the LAYARDS, were destined to be interpreted, illustrated, and fructified for the world of readers at large.

For it is not the least interesting fact in this particular and most richly-yielding field of Assyrian archæology—that several men in Germany;—more than one man in France;—and one man, at least, in Persia, had been working simultaneously, but entirely without concert, at those hard and, for a time, almost barren studies which

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Chap. IV.
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GROUP OF
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ISTS AND
EXPLORERS.

EARLY
LABOURERS
ON THE
DECIPHER-
ING OF
CUNEIFORM
INSCRIP-
TIONS.

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GROUP OF
ARCHÆOLO-
GISTS AND
EXPLORERS.

THE
TRAVELS
AND RE-
SEARCHES
OF SIR
CHARLES
FELLOWS
IN LYCIA.

were eventually to supply a master-key to vast libraries of inscriptions brought to light after an entombment of twenty-five hundred years.

Scarcely smaller than the debt of gratitude which Britain owes to Mr. LAYARD and to Lord STRATFORD DE REDCLIFFE, for the Marbles and other antiquities of Assyria, is the debt which she owes to the late Sir Charles FELLOWS for those of Lycia. Nor ought it to be passed over without remark that the admirably productive mission to the Levant of Mr. Charles NEWTON seems to have grown, in germ, out of the applications made at Constantinople on behalf of Sir Charles FELLOWS. In that merit he has but a very small share. The merit of the Lycian discoveries is all his own. He has now gone from amongst us,—like most of the benefactors whose public services have been recorded in this volume. How inadequate the record; how insufficient for the task the chronicler; no one will be so painfully conscious, as is the man whose hand—in the absence of a better hand—has here attempted the narrative. The Museum story has been long. What remains to be said must needs be put more briefly. But because Sir Charles FELLOWS has been so lately removed from the land he served with so much zeal and ability, I shall still venture to claim the indulgence of my readers for a somewhat detailed account of the work done in Lycia, and of the man who did it.

THE ANA-
LOGIES AND
THE CON-
TRASTS
BETWEEN
FELLOWS
AND
LAYARD.

In one respect, it was with Charles FELLOWS as with Austen LAYARD. A youthful passion for foreign travel, and what grew out of that, lifted each of them from obscurity into prominence. But LAYARD achieved fame at a much earlier age than did Sir Charles FELLOWS. Sir Charles was almost forty before his name came at all before the Public. LAYARD was already a personage at eight and

twenty. This small circumstantial difference between the fortune of two men whose pursuits in life were, for a time, so much alike, deserves to be kept in mind, on this account : Sir Charles lived scarcely long enough to see any fair appreciation of what he had accomplished. Even those whose political sympathies incline them to a belief that Mr. LAYARD's *official* services will never suffice to console Englishmen for the interruption of his archæological services, hope that he may live long enough to enjoy a rich reward for the latter in their yearly-increasing estimation by his countrymen at large. They will delight to see the fervid member for Southwark utterly eclipsed in the fame of the great discoverer of long-entombed Assyria.

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Chap. IV.
ANOTHER
GROUP OF
ARCHÆOLO-
GISTS AND
EXPLORERS.

Sir Charles FELLOWS was the son of Mr. John FELLOWS, of Nottingham. He was born in 1799. In the year 1837, he set out upon a long tour in Asia Minor. Archæological discovery no more formed any part of a preconceived plan in Mr. FELLOWS' case than it did, two or three years afterwards, in Mr. LAYARD's. Both were led to undertake their respective explorations in a way that (for want of a more appropriate word) we are all accustomed to call 'accidental.'

THE
TRAVELS IN
ASIA MINOR,
AND WHAT
GREW
THEREOUT.

In February, 1838, he found himself at Smyrna. After a good deal of observation of men and manners, he betook himself to an inspection of the buildings. He soon found that not a little of the modern Smyrna was built out of the ruins of the Smyrna of the old world. Busts, columns, entablatures, of white marble and of ancient workmanship, were everywhere visible, in close admixture with the recently-quarried building-stone of the country and the period. But not only had the old marbles been built into the new edifices ; they had been turned into tombstones.

Journal
written
during an
Excursion in
Asia Minor,
pp. 8, seqq.
(edit. 1862).

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ANOTHER
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GISTS AND
EXPLORERS.

Ibid., p. 9.

Certain Jews, of an enterprising and practical turn of mind, had bought, in block, a whole hill-full of venerable marbles, in order to have an inexhaustible supply of new tombstones close at hand. In another part of the suburbs of the town, the walls of a large corn-field turned out, on close examination, to be built of thin and flat stones, of which the inner surface was formed of richly-patterned mosaic, black, white, and red. From that day, the traveller, wheresoever he journeyed, was a scrutinising archæologist. And the traveller, thus equipped for his work, was busied, two months afterwards, in exploring that most interesting part of Asia Minor (a part now called 'Anadhouly'), which includes Lydia, Mysia, Bithynia, Phrygia, Pisidia, Lycia, Pamphylia, and Caria; and much of which was never before trodden—so far as is known, and the knowledge referred to is that of the best geographers in England, discussing this matter expressly, at a meeting of the Geographical Society—by the feet of any European.*

THE EX-
PLORATIONS
IN ANTI-
PHELLUS
AND ITS
VICINITY.
1838, April.

On the eighteenth of April, Mr. FELLOWS found himself in the romantically beautiful, but rugged and barren, neighbourhood of Antiphellus. The ancient town of that name possessed a theatre, and a multitude of temples, grandly placed on a far-outjutting promontory. For miles around, the rocks and the ravines were strewn with marble fragments. The face of the cliff, which, on one side, overhangs the town, was seen to be deeply indented with rock-tombs, richly adorned. They contained sarcophagi of a special

* And in which not a few readers will be sure to feel all the more interest, because of its sacred associations, when they call to mind those first-century travels of certain famous travellers who, 'after they had passed throughout Pisidia, came to Pamphylia, and when they had gone through Phrygia, . . . and were come to Mysia, assayed to go into Bythia, but the Spirit suffered them not;'—having work for them to do in another quarter.

form. The lid of each of them bore a rude resemblance to a pointed arch. It sounds at first almost grotesquely, in the ear of a reader of Mr. FELLOWS' *Journal* of 1839, to hear him speak of Lycian tombs as 'Elizabethan' in their architecture. But, in the sense intended, the term is strictly apposite. If the reader will but glance at one of Mr. FELLOWS' many beautiful plates of those rock-tombs, he will see at once that they look not unlike the stone-mullioned windows of our own Tudor age.

BOOK III,
Chap. VI.
ANOTHER
GROUP OF
ARCHÆOLO-
GISTS AND
EXPLORERS.

*Journal of an
Excursion,
&c., as above,
p. 164.*

But the discovery which eclipsed all Mr. FELLOWS' previous researches was that of the ancient capital of Lycia—Xanthus. Next in importance to that was his disinterment of Tlos. He saw the ruins of other and, in their day, famous towns. It was plain that he had now before him a fine opening to add to the stores of human knowledge in some of its grandest departments—artistic, historical, biblical. But, in 1838, he had not the most ordinary appliances of minute research. He went back to England; found (as LAYARD was also destined to find, very shortly afterwards) only a very little encouragement, at official hands; much more than a little, however, in his own reflections and foresight. In 1839, he went back to Lycia, taking with him George SCHARF, then carefully described as 'a young English artist,' now widely known as an eminent archæologist. FELLOWS explored. SCHARF drew. Early in 1840, ten Lycian cities were added to the previous discoveries. Each of them contained many precious works of ancient art.

FURTHER
DISCOVERIES
IN THE
VALLEY OF
THE XAN-
THUS, AND
IN OTHER
PARTS OF
LYCIA;
1840-42.

In order to effectual excavation, and in order also to the safety of what was found from destruction by Turkish barbarities, the Sultan's firman was essential. The difficulties were much like those which, as I have had occasion to show

BOOK III,
P. IV.
OTHER
DUP OF
HEROLO-
RS AND
FLORES.
Book II,
P. 2;
383, seqq.

in 'Book Second,' lay in the path of Lord ELGIN, under similar circumstances, more than forty years earlier. By Lord PONSONBY's zealous efforts, they were at length surmounted. At the earnest instance of the Museum 'Trustees, the Government at home seconded the exertions of their ambassador at Constantinople; and this combination of endeavour made that feasible which the best energies of Sir Charles FELLOWS, single handed, must have utterly failed to secure.

The reader will not, I incline to think, regard as an instance of overmuch detail, if I here add—for instructive comparison with the terms of the official letter procured by Lord ELGIN—the words in which RIFAAT Pasha, in June, 1841, describes the antiquities, the removal whereof was to be graciously permitted. In 1800, Lord ELGIN (after enormous labour) was empowered to 'take away any pieces of stone, from the Temples of the Idols, with old inscriptions or figures thereon.' Now—in 1841—the 'pieces of stone' are described as 'antique remains and rare objects.' The schoolmaster, it will be seen, had been at work at Constantinople.

EX-
ARCHES AT
DYANDA,
TARA, &c.

The explorations at Cadyanda, at Pinara, and at Sidyma, richly merit the reader's attention, as an essential part of our present subject. But happily Sir Charles FELLOWS' books are both accessible and popular. Here we must hasten on to Xanthus, and Sir Charles' story must now be told in his own expressive and graphic words:

EXCA-
VATIONS AT
XANTHUS.

'Xanthus certainly possesses some of the earliest Archaic sculpture in Asia Minor, and this connected with the most beautiful of its monuments, and illustrated by the language of Lycia. These sculptures to which I refer must be the work of the sixth or seventh centuries before the Christian era, but I have not seen an instance of these remains having

been despoiled for the rebuilding of walls ; and yet the decidedly more modern works of a later people are used as materials in repairing the walls around the back of the city and upon the Acropolis ; many of these have Greek inscriptions, with names common among the Romans. The whole of the sculpture is Greek, fine, bold, and simple, bespeaking an early age of that people. No sign whatever is seen of the works of the Byzantines or Christians.

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ARCHÆOLOG-
ISTS AND
EXPLORES.

‘To lay down a plan of the town is impossible, the whole being concealed by trees ; but walls of the finest kind, Cyclopean blended with the Greek, as well as the beautifully squared stones of a lighter kind, are seen in every direction ; several gateways also, with their paved roads, still exist. I observed on my first visit that the temples have been very numerous, and, from their position along the brow of the cliff, must have combined with nature to form one of the most beautiful of cities. The extent I now find is much greater than I had imagined, and its tombs extend over miles of country I had not before seen. The beautiful gothic-formed sarcophagus-tomb, with chariots and horses upon its roof, of which I have before spoken and have given a sketch of a battle-scene upon the side, accompanied with a Lycian inscription, is again a chief object of my admiration amidst the ruins of this city. Of the ends of this monument I did not before show drawings, but gave a full description. Beneath the rocks, at the back of the city, is a sarcophagus of the same kind, and almost as beautifully sculptured ; but this has been thrown down, and the lid now lies half-buried in the earth. Its hog’s-manè is sculptured with a spirited battle-scene. Many Greek inscriptions upon pedestals are built into the walls, which may throw some light upon the history of the city ; they are mostly funereal, and belong to an age and



ANOTHER GROUP OF ARCHÆOLOGISTS, ETC. 649

and bolder style than on the others, and appear to be the most ancient. Should any difference of date occur on this monument, I should decide that this is the commencement or original inscription upon it.

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Chap. IV.
ANOTHER
GROUP OF
ARCHÆOLO-
GISTS AND
EXPLORERS.

‘This, which I must consider as a very important monument, appears to have on the north-east side a portion of its inscription in the early Greek language; the letters are comparatively ill cut, and extremely difficult at such an elevation to decipher; seizing favourable opportunities for the light, I have done my best to copy it faithfully, and glean from it that the subject is funereal, and that it relates to a king of Lycia; the mode of inscription makes the monument itself speak, being written in the first person. Very near to this stands the monument, similar in form, which I described in my last Journal as being near the theatre, and upon which remained the singular bas-reliefs of which I gave sketches. On closer examination I find these to be far more interesting and ancient than I had before deemed them. They are in very low relief, resembling in that respect the Persepolitan or Egyptian bas-reliefs.

*Journal of an
Excursion in
Asia Minor,
&c. (2nd
Edit.),
Appendix.*

‘I have received,’ continues Sir Charles FELLOWS, ‘from Mr. Benjamin GIBSON of Rome a letter in reference to these bas-reliefs: his interpretation of this mysterious subject appears far the best that I have yet heard; and from finding the district to have been in all probability the burial-place of the kings, it becomes the more interesting. Mr. GIBSON writes—“The winged figures on the corners of the tomb you have discovered in Lycia, represented flying away with children, may with every probability be well supposed to have a reference to the story of the Harpies flying away with the daughters of King PANDARUS. This fable we find related by HOMER in the *Odyssey*, lib. xx, where they are



650 LATER AUGMENTORS AND BENEFACTORS.

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Chap. IV.
ANOTHER
GROUP OF
ARCHÆOLO-
GISTS AND
EXPLORERS.

stated to be left orphans, and the gods as endowing them with various gifts. Juno gives them prudence, Minerva instructs them in the art of the loom, Diana confers on them tallness of person, and lastly Venus flies up to Jupiter to provide becoming husbands for them; in the mean time, the orphans being thus left unprotected, the Harpies come and 'snatch the unguarded charge away.' STRABO tells us that PANDARUS was King of Lycia, and was worshipped particularly at Pinara. This tomb becomes thus very interesting; which, if it be not the tomb of PANDARUS, shows that the story was prevalent in Lycia, and that the great author of the *Iliad* derived it from that source. With this clue, we have no difficulty in recognising Juno on the peculiar chair assigned to that goddess, and on the same side is Venus and her attendants; upon another is probably represented Diana, recognised by the hound. The seated gods are less easily distinguished. In the Harpies, at the four corners of the tomb, we have the illustration of those beings as described by the classic writers."

*Travels and
Researches in
Asia Minor,*
pp. 336-340.

MANY SUB-
SEQUENT
DISCOVER-
IES; (THE
DETAILS
HERE NECESS-
SARILY
PASSED
OVER).

Every lateral excursion made by Sir C. FELLOWS, and by his companions in travel, added to his collection rich works of sculpture, and not a few of them added many varied and most interesting minor antiquities. But I must needs resist all temptation to enlarge on that head, though the temptation is great. The twentieth and subsequent chapters of the book itself (I refer to the *collective* but abridged '*Travels and Researches in Asia Minor*' of 1852) will abundantly repay the reader who is disposed to turn to them—whether it be for a renewed or for a new reading.

THE DIFFI-
CULTIES OF
TRANSPORT.
Jan., 1842.

When the task of removal had to be undertaken, difficulties of transport were found, under certain then existing circumstances, to be graver obstacles than had been Turkish



ANOTHER GROUP OF ARCHÆOLOGISTS, ETC. 651

prejudice or Turkish apathy at an earlier stage of the business. The maritime part of the duty had been entrusted to Captain GRAVES, of H.M. Ship *Beacon*. The captain left his ship at Smyrna; sailed with FELLOWS for the Xanthus, in a steam-packet; but omitted to provide himself with the needful flat-bottomed boats. When they reached the site of the marbles which were to be carried away, Captain GRAVES said he would not have any of the stores taken down the river; that stores must be obtained from Malta; and that he would take all hands away from the diggings at the beginning of March. The reader may imagine the reflections of the eager discoverer at this sudden check,—coming, as it did, at the very beginning of the burst.

BOOK III,
Chap. IV.
ANOTHER
GROUP OF
ARCHÆOLO-
GISTS AND
EXPLORES.

1841,
February..

Ibid., pp. 440,
seqq.

He took a solitary walk of many hours, he tells us, before he could resolve upon his course of action. He saw before him, to use his own words, 'a mine of treasure.' He had willing hands to work it; ample firmans to stave off opposition; nothing deficient save boats and tackle. A year might possibly pass in awaiting them from Malta; and, meanwhile, the ignorance of the peasantry, the indiscreet curiosity of travellers, or the sudden growth of political complications, might destroy the enterprise irrecoverably.

He resolved, in his perplexity, to construct by his own exertions tackle that would suffice for the removal to the coast; got native help in addition to the willing efforts—however unscientific—of the honest sailors of the *Beacon*; succeeded in getting a portion of the precious objects of his quest to the waterside, before the arrival of the ship; and got them also strongly cased up. Then he sailed with GRAVES for Malta. The worthy captain resigned the honourable task—to him so unwelcome—into the hands of Admiral Sir Edward OWEN. A new expedition started from Malta at the end of April, and brought away seventy-

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CHAP. IV.
ANOTHER
GROUP OF
ARCHÆOLO-
GISTS AND
EXPLORERS.
ARRIVAL IN
ENGLAND OF
THE FIRST
SERIES OF
XANTHIAN
MARBLES.
Dec., 1841.

eight cases of sculpture in June; leaving the splendid but too-heavy 'winged-chariot-tomb'—so called by its discoverer in one place, and elsewhere called 'horse-tomb,' but since ascertained to be the tomb of a Lycian satrap named PAIAFA; it is adorned with figures of Glaucus, or perhaps of Sarpedon, in a four-horse chariot—until next year. The seventy-eight cases were brought to England by the Queen's ship *Cambridge* in the following December.

On the fourteenth of May, 1842, the Trustees of the British Museum thus recorded their sense of Mr. FELLOWS' public services:—'The Trustees desire to express their sense of Mr. FELLOWS' public spirit, in voluntarily undertaking to lend to so distant an expedition the assistance of his local knowledge and personal co-operation. They have viewed with great satisfaction the decision and energy evinced by Mr. FELLOWS in proceeding from Smyrna to Constantinople, and obtaining the necessary authority for the removal of the marbles; as well as his judicious directions at Xanthus, by which the most desirable of the valuable monuments of antiquity formerly brought to light by him, together with several others, of scarcely less interest, now for the first time discovered and excavated, have been placed in safety, and—as the Trustees have every reason to hope—secured for the National Museum.'

*Minutes of
the Trustees
of the British
Museum;
14 May, 1842.
(Appendix to
Fellows).*

This hope was more than realised. It shows the energy of FELLOWS, that the expedition to Lycia of 1841 was his *third* expedition. In 1846 he made a fourth. It was rich in discovery; but I fear somewhat exhausting to the strength of the explorer. He lived a good many years, it is true, after his return to England; but how easily he yielded when a sudden attack of illness came, I shall have the pain of showing presently.

In the interval between his third and fourth journeys to Lycia, FELLOWS married a fellow-townswoman, Mary, the only daughter of Francis HART, of Nottingham, but she survived the marriage only two years. A year after her death he married the widow of William KNIGHT, of Oatlands, in Herts. On his final return from Lycia he was knighted, as a token (and it was but a slender one) of the public gratitude for his services. At the close of October, 1860, a sudden attack of pleurisy invaded a toilworn frame. On the eighth of the following month he died, at his house in Montagu Place, London, in the sixty-first year of his age.

BOOK III,
Chap. IV.
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ARCHÆOLO-
GISTS AND
EXPLORERS.

Taken broadly, the sculptures of Lycia may be described as works which range, in date, from the sixth century before our Lord to almost as many centuries—if we take the minor antiquities into account—after the commencement of the Christian era. Some of them rank, therefore, amongst the earliest *original* monuments of Greek art which the British Museum possesses; and date immediately after the *casts* of the sculptures of Selinus and of Ægina.

DATE AND
CHARACTER
OF THE
MONUMENTS
IN THE
'LYCIAN
GALLERY.'

On some of the myths and on the habits of Lycian life there has been a sharp controversy, of the merits of which I am very incompetent to speak. Narrower and narrower as my limits are becoming, I yet feel it due to a public benefactor, who can no longer speak for himself otherwise than by his works, that in these waning pages he should be permitted to supply at least a part of his own explanatory comments upon the story of his discoveries. It is one of enchaining interest to the students of classical antiquity.

The famous 'Harpy Tomb,' thinks Sir Charles FELLOWS, is to be enumerated as among the most ancient of the remaining works of the 'Tramilæ,' or 'Termilæ,' mentioned both

OR III.
 SP. IV.
 OTHER
 GROUP OF
 CHÆOLO-
 GISTS AND
 FLOWERS.
 FLOWERS'
 COUNT
 THE
 CYAN
 ARBLES.

by HERODOTUS and by STEPHEN of Byzantium, as well as on the Xanthian obelisk or *stelè*, now called the 'Inscribed Monument,' and numbered '141' in the Lycian Gallery of the Museum.

Sir Charles FELLOWS proceeds to say that 'the shaft, frieze, and cap of this monument, weighing more than a hundred tons, has been by an earthquake moved upon its pedestal eighteen inches towards the north-east, throwing to the ground two stones of the frieze towards the south-west: in this state I found it in 1838. In 1841 the eight stones of this frieze were placed in the Museum. The only similar art which I know in Europe is in the Albani Villa near Rome. This slab is described by WINCKELMANN as being of earlier workmanship than that of Etruria. I shall not dwell upon these works, as they were found *in situ*, and will therefore be as well understood in England as if seen at Xanthus. I may draw attention to the blue, red, and other colours still remaining upon them. The subject also being that of the family of King PANDARUS, it should ever be borne in mind that this monument stood in the metropolis of Lycia, and within twelve miles of the city of Pinara, where we are told that PANDARUS was deified. This and the neighbouring tombs stood there prior to the building of the theatre, which is probably of Greek workmanship. The usual form of this structure must have been partially sacrificed on account of these monuments, as the seats rising in the circles above the diazoma have abruptly ceased on the western side, and have not been continued towards the proscenium. Near to one of the vomitories in the south-eastern bend of the diazoma is a similar monument to the Harpy Tomb, which has had the capstone and bas-reliefs removed, and the shaft built over by the theatre. Upon one of its sides is a short Lycian

inscription, and a few words referring to its repair remain upon another side in the Greek character.

‘Not far from these stands the inscribed stele, which is of the highest interest; of this, which is too heavy and too much mutilated to allow, without great labour, of its removal to the Museum, I have had casts taken in plaster. From my publications you would learn that a portion of the top of this [monument], weighing several tons, had been split off by the shocks of earthquakes: of this I have also had casts taken. In excavating around the monument on the south-west, and in the opposite direction to which the top had split off, I found the capstone had been thrown which had surmounted bas-reliefs; also two fragments of a bas-relief, but I think too high to have been placed upon this stele: they are the work of the same age, and are now placed in the Museum. The most important discovery here was of the upper angles broken from the monument, and having upon them the inscription on each side, thus perfecting, as far as they extend, the beginnings and ends of the upper lines of the inscription; these original stones I have brought home, being useless and insecure, if left in fragments with the monument. The exact form of the letters of the Greek portion of this inscription, compared with many others of which I shall speak, will do much to fix a date to these works.

‘Upon the point of rock on the north-west side of the Acropolis is a fine Cyclopean basement, which has probably been surmounted by a similar monument to those of which I have spoken. No trace is found of any of its fragments; and from its position, shocks in the same direction as those which have destroyed the others would have thrown this down the perpendicular cliff into the river which flows about three hundred feet beneath.

BOOK III.
CHAP. IV.
ANOTHER
GROUP OF
ARCHÆOLO-
GISTS AND
EXPLORERS.

ON III.
 SP. IV.
 OTHER
 OUT OF
 CIRCULO-
 TS AND
 FLORES.

‘The masses of Cyclopean foundations traced around and upon the Acropolis, have been too much worked in, and converted to the use of an after people to ascertain their original form: they certainly have not been continuous, forming a wall or defence for the Acropolis; indeed, its natural position would render this superfluous, the cliffs on the south and west are inaccessible. I observe that most of the forms are referable to vast pedestals or stoas for large monuments; and from their individual positions at various elevations, and upon angles and points, I believe that the Acropolis has been covered with the ornamented monuments of this early people. The walls and basements of these separate buildings have since been united by strong lines formed of the old materials, the most ready for the purpose, and all put together with a very excellent cement, of which I have brought away specimens. A wall of this formation, facing the south-west, attracted my attention in 1838, by displaying some sculptured animals and chariots built as material into its front. This wall we have, with great labour, owing to the hardness of the cement, entirely removed; behind a portion of it we found a fine Cyclopean wall, which had slightly inclined over from the weight of earth behind; the casing which we have removed strengthened it, and, connecting the old buildings with others, formed a line of fortification, probably in Roman times. From the great size of the blocks used in constructing this wall, from the similarity of the stone, as well as from the sculpture traceable upon almost the whole of them, I conclude that they must have been the ruins of monuments in the immediate neighbourhood; basements for such are on either side. The works found here are entirely those of the early people; and I may extend this remark to all found upon the Acropolis. The

architectural fragments, many specimens of which I bring away, are all Lycian, and would form monuments imitative of wooden constructions—beam-ends, ties, mortices, and cornices, similar to the tombs shown in the drawings, but double the size in point of scale to any now existing; bearing this in mind, I do not think it improbable that the sculptures representing a chariot procession have filled the panels on either side; should this be the case we have nearly the whole complete. The cornice and borders of these strongly corroborate this idea. We have four somewhat triangular stones, with sitting sphinxes upon each; these would complete the two gable ends in similar form and spirit of device to the generality of the tombs of this people. There is also an angle-stone, interesting from its sculpture, and from its style and subject blending these works with the age of the “Harpy-Tomb.”

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‘To continue with the works of the early inhabitants: We must next notice the tombs at the foot of the rocky heights at the south-eastern parts of the city: of these the most beautiful are the kind having Gothic-formed tops; these can be seen in the various drawings. The structure generally consists of a base or pedestal which has contained bodies, the *Platas*, surmounted by a plinth or solid mass of stone, which is often sculptured; above this is a sarcophagus, generally imitative of a wood-formed cabinet, the principal receptacle for the bodies, the *Soros*; upon this is placed a Gothic lid, sometimes highly ornamented with sculpture, which also served as a place of sepulture, probably the *Isostæ*. From one of these, in which the lower parts were cut out of the solid rock, and the top had fallen and been destroyed, I have had casts taken, as the subject is intimately connected with the frieze of the wild animals on the Acropolis. On this tomb, the inscription

is cut in the language of the early people. Not far distant from this is a tomb which, from the sculpture upon it, I distinguish as the "Chimæra-Tomb." The lid of this, which I found in 1840, is perfect, but had been thrown to the ground by the effect of earthquakes; the chamber from off which it had slidden was inclining towards the lid; beneath the chamber a few stones forming the foundation and step (in the same block) are alone to be found. There is here no trace of the first two stories, and from the rock approaching the surface of the ground I found no depth of earth for research. Upon the chamber of this tomb is a Lycian inscription, of which I have casts, in order that they may be used in reconstructing the monument in the Museum. The other tomb of this character, and by far the most highly ornamented, was the tomb of ΠΑΙΑΦΑ, and I call it, from its sculpture, the "Winged-Chariot-Tomb." In finding this monument, in 1838, I observed that each part had been much shaken and split by earthquake, but no portion was wanting except a fragment from the north corner. This monument combines matters of great interest, showing in itself specimens of the architecture, sculpture, and language. I have stated that this style of monument is peculiar to Lycia; and I now add, from the knowledge derived from my research in that country, that Lycia contains none but these two of this ornamental description. These differ in minor points, making the possession of each highly desirable, and I am glad that these will be placed in our National Museum. The tombs of Τελmessus, Antiphellus, and Limyra, are similar in construction, but have not the sculptured tops and other ornamental finishings seen in these.

' Upon the Acropolis, and fallen into a bath, we found a pedestal having sculptured upon the side a god and goddess



ANOTHER GROUP OF ARCHÆOLOGISTS, ETC. 659

within a temple, in excellent preservation. On the opposite side of the pedestal is a very singular subject, which, had not certain points both of execution, material, and position occurred, I should have attributed to the Byzantine age. Amongst many other animals, the object of chase to a hunter is seen much mutilated: this may have been the representation of a novel idea of the Chimæra: the hind quarters of a goat remain, with a snake for its tail. It is greatly to be regretted that the other fragments could not be found. On observing in the ground some very ancient forms of the Greek letters, differing from all others found so commonly here, cut upon a slab of marble, I had it taken up, and was delighted to find that it was a pedestal, with a Lycian inscription upon the other side; this will be valuable, as showing the form of the Greek characters in use at the age of the language of Lycia. This same type is seen in all the bilingual inscriptions, of which we have only casts.

‘Of another pedestal at Tlos I have taken casts, which will be valued from the subjects of the bas-reliefs. The pedestal of one stone was formed of two cubes, a small one upon a larger. The fourth side of the upper one was not sculptured. One slab of the larger cube represents in bas-relief a view of the Acropolis of Tlos, the Troas of these early people: probably the hero whose deeds were by this monument commemorated, and whose name occurs twice upon it, was engaged in the defence or capture of the city. At Tlos I also found cut in the rock of the Acropolis a tomb with an Ionic portico. Within this are represented a panelled and ornamented door, and several sculptured devices and animals, as shown in the drawings and plans. On the side, and within the portico, is a very early bas-relief of Bellerophon upon Pegasus, and probably

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Note.—The plans referred to are appended to the first edition of Sir C. Fellows' book.

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a chimæra beneath the horse ; but this portion of the sculpture is unfinished, and the rock beneath is left rough ; the columns of the portico are only blocked out from the rock. Of the bas-relief of Bellerophon I have casts, and the full detail of the colouring which now remains upon the figures. This is probably the earliest sculpture which we have obtained. From Cadyanda I have casts of parts of a beautiful tomb, which is so much in ruins, and shaken into fragments, that I could not even take casts of the whole of the sculptures that remain. The roof or lid is wanting. The tomb now consists of a chamber in imitation of a wooden structure, and in the panels is sculpture ; surmounting this is a smaller solid block, or plinth, also sculptured, but the upper part is wanting. These bas-reliefs, of which I show many drawings in my 'Lycia,' derive great additional interest from several of the figures having near them names inscribed in two languages—the Greek and the Lycian. The casts of these, I doubt not, will be valued as important illustrations. From Myra I have casts of the whole of the figures ornamenting one of the rock-tombs. Three of these subjects from within the Portico retain so much of their original painting that I have had the casts coloured on the spot as fac-similes, and a portion of the paint is preserved for chemical examination. There are from this tomb eleven figures the size of life. Of the inscriptions of this people I have made many copies ; I have had casts of one long one from the large Gothic-formed tomb at Antiphellus, also of the bilingual inscription from the same place, and of another from Levisse, near the ancient Telmessus.

'Of the age of the next works of which I must speak, and which are a large portion of the collection from Xanthus, I have great difficulty in forming an opinion. The whole

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Greek soldiers. Many of these peculiarities are also seen in the larger frieze, and also in the style of the lions and statues. The form of the building, which alone I can reconcile with the remains, is a Carian monument of the Ionic order. Bearing in mind all these points, I am strongly inclined to attribute this work to the mercenaries from Æolia and Ionia, brought down by HARPAGUS to conquer the inhabitants of Xanthus, whom they are said to have utterly destroyed. This monument may have been the tomb of a chief, or erected as a memorial of the conquest of the city by HARPAGUS. No inscription has been found, or it might probably have thrown some light upon the date of this work. In the immediate neighbourhood were found the other friezes, representing hunting-scenes, a battle, offerings of various kinds and by different nations, funeral feasts, and several statues which are of the same date.' Sir Charles then concludes thus:—

'The whole of the remaining works now to be traced amidst the ruins of Xanthus are decidedly of a late date; scarcely any are to be attributed to a period preceding the Christian era, and to that age I cannot conceive the works just noticed to have belonged. A triumphal arch or gateway of the city at the foot of the cliff of which I have spoken has upon it a Greek inscription, showing it to have been erected in the reign of VESPASIAN, A.D. 80: from this arch are the metopes and triglyphs now in the Museum. Through this is a pavement of flagstones leading towards the theatre. To this age I should attribute the theatre, agora, and most of the buildings which I have called Greek, and which are marked red upon the plan. To this people belong the immense quantity of mosaic pavements which have existed in all parts of the city. Almost all the small pebbles in the fields are the débris of these works. In many

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 THE
 MONUMENTS AND
 EXCAVATIONS.

four additional slabs (similar to those received from the Ambassador), on the site of the world-famous mausoleum itself; several colossal statues, and portions of such; together with a multitude of architectural fragments of almost every conceivable kind; columns—mostly broken into many portions—with their bases, capitals, and entablatures, in sufficient quantity and diversity to warrant a faithful restoration of the ancient building by a competent hand.

From Didyme (near Miletus), from Cnidus, and from Branchidæ, many fine archaic figures in the round; some colossal lions; and an enormous number of fragments both of sculpture and of architecture; with many minor antiquities, various in character and in material, were successively sent to England. Mr. Charles NEWTON's narrative of his adventures at Budrum, and at several of the other places of his sojourn and excavations, is very graphic. Some portions of it are worthy to be placed side by side with the best chapters of the earlier narrative of the explorations and travelling experiences of LAYARD.

Of the most famous trophy of Mr. NEWTON's first mission to the East—the mausoleum built by Queen ARTEMISIA—the discoverer has himself more recently given this brief and striking descriptive account:—

THE TOMB
 OF MAUSOLUS
 AT HALICARNASSUS.

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 antiqui-
 ties, &c.,
 74, 75.

This monument, writes Mr. NEWTON, in 1869, was erected 'to contain the remains of MAUSOLUS, Prince of Caria, about *B.C.* 352. It consisted of a lofty basement, on which stood an oblong Ionic edifice, surrounded by thirty-six Ionic columns, and surmounted by a pyramid of twenty-four steps. The whole structure, a hundred and forty feet in height, was crowned by a chariot-group in white marble, in which probably stood MAUSOLUS himself, represented after his translation to the world of demigods

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 FLORES.
 NEWTON,
Guide,
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 74; and
*works and
 discoveries in
 the Levant*,
 i. ii,
 p. 108-187;
 and *passim*.
 SEE EX-
 PLORATIONS
 OF NATHAN
 DAVIS AT
 CARTHAGE
 AND UTICA.

whole structure was richly ornamented with colour. The tomb of MAUSOLUS was of the class called by the Greeks *heröon*, and so greatly excelled all other sepulchral monuments in size, beauty of design, and richness of decoration, that it was reckoned one of the "Seven Wonders of the World."

While LAYARD was unearthing Nineveh; FELLOWS bringing into the light of day the long-lost cities of Lycia; and Charles NEWTON restoring, before men's eyes, this funereal marvel of the ancient world, which had long been known (in effect) only by dim memories and traditions; Dr. Nathan DAVIS, in his turn, was exhuming Carthage and Utica. All these distinguished men were labouring, in common, for the enrichment of our National Museum, within a period of some twenty years. Three of them may be said to have been busied (in one way or other) with their self-denying tasks contemporaneously.* If we take into the account the variety, as well as the intrinsic worth, of the additions thus made to human knowledge; above all, if we duly estimate the value of those links of connection

* I shall not, I trust, be suspected of a want of gratitude for the eminent and most praiseworthy efforts of Mr. Davis—one of the many Americans who have returned, with liberal profuseness, the reciprocal obligations which *all* Americans owe to Britain (for their ancestry, and also for the noble interchange of benefits between parent and offspring, prior to 1776; if for nought else), if I venture to remark that the above-written passage in the text has been inserted somewhat hesitatingly, as far as it concerns the *date* of the Carthaginian explorations. No index; no summary; no marginal dates; conflicting and obscure dates, when any dates appear anywhere; no introduction, which introduces anything; scarcely any divarication of personal knowledge and experiences, from borrowed knowledge and experiences; such are some of the difficulties which await the student of *Carthage and her Remains*. Yet the book is full of deep interest; its author is, none the less, a benefactor to Britain, and to the world.

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GROUP OF
ARCHÆOLOGICAL
ISTS AND
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from amidst the ruins of Carthage. Many of these, like some of the choice treasures of Nineveh, are, in a sense, still buried—for want of room at the British Museum adequately to display them. The reader may yet, but too fitly, conceive of some of them as piteously crying out (in 1870, as in 1860)—

'Here have ye piled us together, and left us in cruel confusion,
Each one pressing his fellow, and each one shading his brother;
None in a fitting abode, in the life-giving play of the sunshine;
Here in disorder we lie, like desolate bones in a charnel.'

THESE CON-
FIDIOUS
JUGEN-
ORS OF THE
GALLERIES
OF ANTI-
QUITIES.

Many other liberal benefactors to the several Archæological Departments of the Museum deserve record in this chapter. But the record must needs be a mere catalogue, not a narrative; and even the catalogue will be an abridged one.

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i vols, 1847),
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Foremost among the discoverers of valuable remains of Greek antiquity, subsequent to most of those which have now been detailed, are to be mentioned Mr. George DENNIS, who explored Sicily in 1862 and subsequent years; and Captain T. A. B. SPRATT, who travelled over Lycia and the adjacent countries, following in the footsteps of Sir Charles FELLOWS, and who enjoyed the advantage of the company and co-operation of two able and estimable fellow-travellers, Edward FORBES and Edward Thomas DANIELL, both of whom, like their honoured precursor in Lycian exploration, have been many years lost to us.

The antiquities collected in Sicily by DENNIS, at the national cost, were chiefly from the tombs. They included very many beautiful Greek vases, a collection of archaic terra-cottas, and other minor antiquities.* Some of the

* These were given to the Museum by Lord Russell, as Secretary of State for Foreign Affairs. Lord Russell was one of the earliest of

CHAPTER V.

THE FOUNDER OF THE GRENVILLE LIBRARY.

'He was a scholar, and a ripe and good one,
Exceeding wise, fairspoken, and persuading;
Crabbed, mayhap, to them that loved him not;
But to those men that sought him, sweet as Summer.'—

Henry VIII.

'If a man be not permitted to change his political
opinions—when he has arrived at years of discretion—he
must be born a SOLOMON.'—

W. F. HOOK, *Lives of the Archbishops of Canterbury*,
(vol. viii, p. 337).

*The GRENVILLES and their Influence on the Political Aspect
of the Georgian Reigns.—The Public and Literary
Life of the Right Honourable Thomas GRENVILLE.—
History of the GRENVILLE Library.*

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OF THE
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It was the singular fortune of Thomas GRENVILLE to belong to a family which has given almost half a score of ministers to England; to possess in himself large diplomatic ability; and to have been gifted—his political opponents themselves being judges—with considerable talents for administration; and yet, in the course of a life protracted to more than ninety years, to have been an *active* diplomatist during less than one year, and to have been a Minister of State less than half a year. It is true that he was of that happy temperament which both enables and tempts a man to carve out delightful occupation for himself. He had, too, those rarely combined gifts of taste, fortune, and public spirit, which inspire their possessor with the will,

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GRENVILLE
LIBRARY.

Lord Temple
to T. Gren-
ville, 12th
July.

news reached him of Lord ROCKINGHAM's death, and of the break-up in the Cabinet which followed, his decision was, if possible, more decided. He still clave to Fox, while his brother, Lord TEMPLE, accepted from SHELBURNE the Lieutenancy of Ireland. A Lordship of the Treasury or the Irish Secretaryship was by turns pressed upon Mr. GRENVILLE by Lord TEMPLE with an earnestness which may be called passionate. 'Let me hope,' said he, 'that you will feel that satisfaction that every [other] member of my family most earnestly feels at my acceptance of the Lieutenancy of Ireland. . . . I conjure you, by everything that you prize nearest and dearest to your heart; by the joy I have ever felt in your welfare; by the interest I have ever taken in your uneasiness; weigh well your determination; it decides the complexion of my future hours. . . . I have staked my happiness upon this cast.' The resolve of Thomas GRENVILLE to adhere to the position he had taken was the cause of a family estrangement which endured for many years. But the more a reader, familiar with the annals of the time (and especially if he be also familiar with the personal history of Lord TEMPLE before and after), may study Lord TEMPLE's letters of 1782, the less he is likely to wonder that the peculiar line of argument they develope failed to attain the aim they had in view. The vein that runs through them is plainly that of personal ambition; not of an adherence—at any cost—to a sincere conviction, whether right or wrong, of public duty. Such a line of argument was, at no time, the line likely to commend itself to Thomas GRENVILLE. Both his virtues, and what by many politicians will be regarded as his weaknesses, alike armed him against obvious appeals to mere self-interest or self-aggrandisement.

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chap. V.
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FOUNDER
F THE
GRENVILLE
LIBRARY.
HE MIS-
SION TO
BERLIN,
795.

The mission to Berlin was first impeded by a threatened shipwreck among icebergs at sea, and, when that impediment had been with difficulty overcome, the journey was again and more seriously obstructed by an actual shipwreck upon the coast of Flanders. Mr. GRENVILLE's life was exposed to imminent danger. After a desperate effort, he succeeded in saving his despatches and in scrambling to land. But he saved nothing else; and the inevitable delay enabled the French Directory to send SÈYÈS to Berlin, in advance of the ambassador of Britain. The able and versatile Frenchman made the best of his priority. Mr. GRENVILLE was not found wanting in exertion, any more than in ability. But in the then posture of affairs the advantage in point of time, proved to be an advantage which no skill of fence could afterwards recover. Hence it was that the mission of 1795 became practically an abortive mission. With it ended the ambassador's diplomatic career.

THE
CABINET
F 1806.

Almost equally brief was his subsequent actively official career in England. On the formation of Lord GRENVILLE's Cabinet (February, 1806), no office was taken by the Premier's next brother. But on the death of Fox, six months later, he became First Lord of the Admiralty. That office he held until the formation of the Tory Government, in the month of April, 1807. It was too brief a term to give him any adequate opportunity of really evincing his administrative powers. And during almost forty remaining years of life he never took office again, contenting himself with that now nominal function (conferred on him in the year 1800), the 'Chief-Justiceship in Eyre, to the south of the river Trent,' of the profits of which, as will be seen presently, he made a noble use. That office in Eyre had once been a function of real gravity and potency. It was still

HE 'CHIEF
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800-1845.

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GRENVILLE
LIBRARY.

See the
Plan, here-
after.

evident relief of mind, 'Well, so much the better.' Long afterwards, when visiting Mr. PANIZZI in his private study, he asked the question—'Where are you going to put my books? I see your rooms are already full.' He was taken to the long, capacious, but certainly not very sightly, 'slip,' contrived by Sir R. SMIRKE on the eastern outskirts of the noble King's Library. 'Well,' was the Keeper's reply, 'if we can't do better, we will put them *here*; and, as you see, my room is close by. Here, for a time, they will at least be under my own eye.' The good and generous book-lover went away with a smile on his genial face, well assured that his books would be gratefully cared for.

THE RECEPTION AT THE
MUSEUM
OF THE
GRENVILLE
COLLECTION.

Mr. GRENVILLE died on the 17th of December, 1846. On the day of his death it chanced that the present writer was engaged on a review-article about the history of the Museum Library. Ere many days were past it was his pleasant task to add a paragraph—the first that was written on the subject—respecting the new gift to the Public. But an accident delayed the publication of that article until the following summer.

Meanwhile, the final day of the reception of the books—a dreary, snowy day of the close of February—was, to us of the Museum Library, a sort of holiday within-doors. Very little work was done that day; but many choice rarities in literature, and some in art, were eagerly examined. All who survive will remember it as I do. To lovers of books, such a day was like a glimpse of summer sunshine interposed in the thick of winter.

To tell what little can here be told of the history and character of the Grenville Library in other words than in those well-considered and appropriate words which were

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Library contains a copy of the first edition, which, if not the finest known, is at all events surpassed by none. His strong religious feelings and his sincere attachment to the Established Church, as well as his knowledge and mastery of the English language, concurred in making him eager to possess the earliest as well as the rarest editions of the translations of the Scriptures in the vernacular tongue. He succeeded to a great extent; but what deserves particular mention is the only known fragment of the *New Testament* in English, translated by TYNDALE and ROY, which was in the press of QUENTELL, at Cologne, in 1525, when the translators were obliged to interrupt the printing, and fly to escape persecution.

'The History of the British Empire, and whatever could illustrate any of its different portions, were the subject of Mr. GRENVILLE'S unremitting research, and he allowed nothing to escape him deserving to be preserved, however rare and expensive. Hence his collection of works on the Divorce of HENRY VIII; that of Voyages and Travels, either by Englishmen, or to countries at some time more or less connected with England, or possessed by her; that of contemporary works on the gathering, advance, and defeat of the "Invincible Armada;" and that of writings on Ireland;—are more numerous, more valuable, and more interesting, than in any other collection ever made by any person on the same subjects. Among the Voyages and Travels, the collections of DE BRY and HULSIUS are the finest in the world; no other Library can boast of four such fine books as the copies of HARIOT'S *Virginia*, in Latin, German, French, and English, of the DE BRY series. And it was fitting that in Mr. GRENVILLE'S Library should be found one of the only two copies known of the first edition of this work, printed in London in 1588, wherein an

CHAPTER VI.

OTHER BENEFACTORS OF RECENT DAYS.— CREATION OF THE NEW DEPARTMENT OF BRITISH AND MEDÆVAL ANTIQUITIES AND ETHNOGRAPHY.

‘Amidst tablets and stones, inscribed with the straight and angular characters of the Runic alphabet, and similar articles which the vulgar might have connected with the exercise of the forbidden arts, were disposed, in great order, several of those curious stone axes, formed of green granite, which are often found in these Islands. There were, moreover, to be seen amid the strange collection stone sacrificial knives . . . and the brazen implements called Celts, the purpose of which has troubled the repose of so many antiquaries.’—*The Pirate*, c. xxviii.

‘A Museum of Antiquities—not of one People or period only, but of all races and all times—exhibits a vast comparative scheme of the material productions of man. We are thus enabled to follow the progress of the Fine and Useful Arts, contemporaneously through a long period of time, tracing their several lines backwards till they converge at one vanishing point of the unknown Past.’—

C. T. NEWTON (*Letter to Col. Mure*, 1853).

Scantiness of the Notices of some Contributors to the Natural-History Collections, and its cause.—*The Duke of BLACAS and his Museum of Greek and Roman Antiquities.*—*Hugh CUMING and his Travels and Collections in South America.*—*John RUTTER CHORLEY, and his Collection of Spanish Plays and Spanish Poetry.*—*George WITT and his Collections illustrative of the History of Obscure Superstitions.*—*The Ethnographical Museum of Henry CHRISTY, and its History.*—*Colonial Archæologists and British Consuls: The History of the WOODHOUSE Collection, and of its transmittal to the*

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BENEFAC-
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RECENT
DAYS.

exile, and warmly attached himself to LEWIS THE EIGHTEENTH, to whom, in after years, he became the minister of predilection, as distinguished from that monarch's many ministers of constraint. He had, in his own day, the reputation of being a courtier; but seems to have been, in truth, an honest, frank, and outspoken adviser. One saying of his depicts quite plainly the nature of the man, and also the nature of the work he had to do:—"If you want to defend your Crown, you musn't run away from your Kingdom." Those words were spoken in 1815; and, as we all know, were spoken in vain.

A statesman of that stamp—one who does *not* watch and chronicle the shiftings of popular opinion, in order to know with certainty what are his own opinions, or in order to shape his own political 'principles'—rarely enjoys popularity. DE BLACAS became so little popular at home, that the King was forced to send him, for many years, abroad. At Rome, he negotiated the Concordat (1817-19); at Naples, he advised an amnesty (1822), together with other measures, some of which were too wise for the latitude. In the interval between his two residences at the Court of Naples, he took part in the Congress of Laybach.

FORMATION
OF THE
BLACAS
MUSEUM.

The opportunities afforded by diplomacy in Italy and in other countries were turned to intellectual and archaeological, as well as to political, account. He imitated the example of HAMILTON and of ELGIN, and that of a crowd of his own countrymen, long anterior to either. Since his son's death, the British Museum has, by purchase, entered into his archaeological labours almost as largely—in their way and measure—as it has inherited the treasures of its own enlightened ambassadors at Naples and at Constantinople.

The Duke died at Goeritz in 1839. Nine years earlier,

BOOK III,
Chap. VI.
OTHER
BENEFACTORS OF
RECENT
DAYS.

HUGH
CUMING; HIS
TRAVELS
AND HIS
COLLEC-
TIONS, IN
AMERICA
AND ELSE-
WHERE.
1791.

See page 376.

indubitable flesh and blood, are mingled with the more unsubstantial forms of Nereids, riding upon Tritons.

Of the men devoted, in our own day, to the enchaining pursuits of Natural History, few better deserve a competent biographer than does Hugh CUMING, whose career, in its relation to the Museum history, has an additional interest for us from the circumstance that his course in life was partly shaped by his having attracted, in childhood, the notice of another worthy naturalist and public benefactor, Colonel George MONTAGU, of Lackham.

Young CUMING's childish fondness for picking up shells and gathering plants attracted Colonel MONTAGU's notice about the time that the boy was apprenticed to a sailmaker, living not far from the boy's native village, West Alvington, in Devon. The elder naturalist fostered the nascent passion of his young and humble imitator, and the trade of sailmaking brought CUMING, whilst still a boy, into contact with sailors. The benevolent and Nature-loving Colonel told the youngster some of the fairy tales of science; the tars spun yarns for him about the marvels of foreign parts. A few, and very few, years of work at his trade at home were followed by a voyage to South America. At Valparaiso he resumed his handicraft, but only as a step (by aid of frugality and foresight) towards saving enough of money to enable him to devote his whole being to conchology and to botany. Seven years of work under this inspiring ambition, seem to have enabled the man of five-and-thirty to retire from business, and to build himself a yacht. But his was to be no lounging yachtman's life; it was rather to resemble the life of an A.B. before the mast. The year 1827 was spent in toiling and dredging, to good purpose, amongst the islands of the South Pacific. When he re-

BOOK III.
PART VI.
THE
BENEFACTORS
OF
SCIENTIFIC
ARTS.

private store, and to defer, almost until death overtakes them, the drawing from that store for the Public. If there may really, by some dim possibility, have been here and there an inglorious HAMPDEN, or a mute SHAKESPEARE, it is very certain that there have been, in literary history and in like departments of human study, many an unknown DISRAELI, many a Tom WARTON, brimful of knowledge about poets and poetry, who never could have lived long enough to put to public use the materials he had laboriously brought together.

BOOK
PART AND
IN COLLEC-
IONS ILLU-
STRATIVE
OF THE
HISTORY OF
SUPERSTI-
TIONS.

Of another Collector, whose pursuits lay at an opposite pole to those of Mr. CHORLEY, it would not be edifying to say very much in these pages. Some among the collections illustrative of the history of obscure superstitions (to quote the polite euphuism of one of the Museum *Returns* to Parliament) partake, in a degree, of the peculiar associations which connect themselves with the bare name of a place at which some few of them were really found—that too famous retreat of the Emperor TIBERIUS. Others of them, however, possess a real archæological value from a different point of view. All, no doubt, are characteristically illustrative, more or less, of the doings ‘in the dark places of the earth,’ and may point a moral, howsoever little fitted to adorn a tale.

Mr. George WITT, F.R.S., the collector of these curiosities of human error, was a surgeon who had lived much in Australia, and who, on his return from the Colonies, had retired to a provincial town in England, where, at first, he amused his leisure by gathering a small museum of natural history. Of that collection I remember to have seen a printed catalogue, but I imagine that he sold it in his lifetime, as no part of his objects of natural history came, with his other and much more eccentric museum, to the aug-

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The time which works of good-samaritanism such as these left unoccupied was given to a vast series—or rather to a succession of series—of explorations which have had already a noble result, and which will yield more and more fruit for many a year to come. The scene of them embraced Mexico, the United States, British America, Denmark, and several Departments of Southern and Western France. Their period reached from 1860—when he had just entered the fiftieth year of his age—almost to the day of his lamented and sudden death in the May of 1865. His able and beloved friend and fellow-worker LARTET was with him in the Allier, when the fatal illness struck him, at the age of fifty-four. It will be pardoned me, I trust, if in this connection I quote, once again, those thoughtful words, out of the private note-book of Lord BACON, which I applied in a former chapter to another and more recent public loss—‘Princes, when men deserve crowns for their performances, do not crown them below, where the deeds are performed, but call them up. So doth God, by death.’

ABACTER
 THE
 RINTY
 SKUM.

The little that need here be added as to the nature and extent of Mr. CHRISTY’s gift to the Public, will be best said in the words of the present able Curator of the Collection, Mr. A. W. FRANKS. But it should be first premised that the posthumous gift was only the continuation of a long series of gifts, which embraced the Museums, not of England alone, but those of Northern and of Southern Europe, and (as I think) some of those of America:—

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Among the most important contents of the CHRISTY Museum is a collection of stone implements from the Drift. They are the most ancient remains of human industry hitherto discovered; they include a remarkably fine series from St. Acheul, near Amiens. Antiquities found in the

700 LATER AUGMENTORS AND BENEFACTORS.

BOX III,
SP. VI.
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called to two valuable relics from China; an Imperial State Seal carved in jade, and a set of tablets of the same material, on which has been engraved a poem by the Emperor KIEN-LUNG.

The Polynesian Room contains a valuable collection of weapons, ornaments, and dresses, both from the islands inhabited by the black races of the Pacific, and from those of Polynesia proper. Many of the specimens are of interest, as belonging to a state of culture which has now completely changed, and as illustrating manners and customs that have disappeared before the commerce and the teaching of Europeans.

IA.

In the 'Asian Room' are placed the larger objects from the Pacific, such as spears, clubs, and paddles. The collection of spears is very large and interesting.

STRALIA
ID PART
NORTH
ERICA.

The Australian Collection is very complete, and it would not be easy to replace it, inasmuch as the native races are dwindling in most parts of that continent.

ORTH AND
UTH
ERICA.

The American department in chief includes antiquities and recent implements and dresses from the North American Indians; ancient Carib implements; and recent collections from British Guiana, and other parts of South America. The most valuable part of the contents of this room is the collection of Mexican antiquities, which is not only extensive, but includes some specimens of great rarity. Among them should be especially mentioned the following:—An axe of Avanturine jade, carved into the form of a human figure; a remarkable knife of white chalcedony; a sacrificial collar formed of a hard green stone; a squatting figure, of good execution, sculptured out of a volcanic rock; and three remarkable specimens coated with polished stones. The latter consist of a wooden mask covered with a mosaic of blue stones, presumed to be turquoises, but

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OTHER
BENEFACTORS OF
RECENT
DAYS.

THE STATE
OF THE
CHRISTY
COLLECTION
VIEWED
IN ITS
BEARINGS
UPON THE
QUESTION OF
MUSEUM
RECON-
STRUCTION.

THE ARCHÆ-
OLOGICAL
BEQUEST
OF JAMES
WOODHOUSE,
OF CORFU.

that respect, of portions of the general Museum of Antiquities at Bloomsbury itself—and of nearly all our splendid national collections in Natural History—gives tenfold importance to that question of speedy enlargement or efficient reconstruction which it will be my duty rather to state, than to discuss, in the next chapter. It will be my earnest aim to state it with impartiality, and, for the most part, in better words than my own.

Next in importance—but next at a long interval—to the accessions which the Nation owes to the munificence of Henry CHRISTY, comes the bequest of Mr. James WOODHOUSE, of Corfu, the circumstances attendant upon which have much singularity.

It is only of late years (speaking comparatively) that British Consuls have become at all notable as collectors of antiquities. But when once the new fashion was set, it spread rapidly, and it may now be hoped that there will be as little lack of continuance as of speed. In Chapter V, I had to mention (though very inadequately to the worth of their labours) several Consuls in the Levant, who have eminently distinguished themselves in augmenting our National Museum. But in this chapter the reader must be introduced to a Consul who rather obstructed than promoted a worthy public object.

James WOODHOUSE was a British subject engaged in commerce, who had resided for many years at Corfu (where for a time he had filled the office of Government Secretary), and who consoled his self-imposed exile by collecting a cabinet of coins, which eventually became one of great value, and also an extensive museum of miscellaneous, but chiefly of Greek, antiquities. Repeatedly, during his life-time, he announced his desire and purpose to perpetuate

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HOUSE's property as 'seemed' (to him and to a clerical friend of the collector) '*suitable* for the British Museum.'

Most naturally, when the intelligence came to the Museum, it was thought by the Trustees that Mr. SAUNDERS had both very seriously exceeded, and very gravely fallen short of, his obvious official duty. 'Selection' was felt to have been superfluous in respect to any and every item, of every kind, belonging to the donor's museum. Just as plainly, the instant forwarding of the whole, on the other hand, was a peremptory obligation upon the British Consul.

Eventually (and by the zealous exertions of Sir A. PANIZZI and of Mr. Charles NEWTON, respectively, on behalf of the Trustees) conclusive evidence was placed before Lord STANLEY (the now Earl of DERBY, and then, it will be remembered, Foreign Secretary of State) that Mr. Consul-General SAUNDERS had divided the Woodhouse antiquities into *two* portions, and had then proceeded to allot the smaller portion to the British Museum, and the larger to the 'heirs-at-law' of the deceased. Nor is it yet quite certain that such division was *all* the division that occurred.

After long inquiries and much correspondence—as well between the Foreign Office and the Queen's Advocate, as between the Trustees and their officers on the one hand, and various persons at Corfu, including, of course, the Consul-General himself, on the other—Lord STANLEY touched the point of the affair with characteristic keenness when he wrote, in his despatch to Mr. SAUNDERS of the seventh of January, 1867: 'Your neglect to *make an Inventory* of the effects of the deceased has been the main cause of the doubts which have been felt as to the propriety of your conduct in this matter, and of the inquiry which has been the consequence of those doubts.'

But that neglect was then incurable. And, subsequently

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BENEFACTORS OF
RECENT
DAYS.

acquisitions which were incidental to that campaign. 'Mr. HOLMES, the officer attached to the Abyssinian Expedition by the Trustees of the British Museum'—I quote exactly and literally from the '*Accounts and Estimates*' of last year (1869)—'collected . . . among other objects, a silver chalice and a paten bearing Æthiopic inscriptions, showing them to have been given to various churches by King THEODORE.'

THE COL-
LECTION
OF SACRA-
MENTAL
PLATE IN
ABYSSINIA.

I am certain to be uncontradicted when I assert, that neither the Trustees of the British Museum, nor Lord NAPIER of Magdala, instructed Mr. HOLMES to take from Christian churches in Abyssinia their sacramental plate, or their processional crosses.

THE COL-
LECTION OF
ABYSSINIAN
MSS.

It is a far pleasanter task to praise the diligence with which Mr. HOLMES executed the Commission really given him by the Trustees. He collected many specimens of Abyssinian art and industry which were fit contributions to the National Museum. In like manner, Lord NAPIER authorised the collection, partly by officers under his command, and partly by the researches of Mr. HOLMES, of a series of Abyssinian Manuscripts, extending to three hundred and thirty-nine volumes. These were given to the Museum by the then Secretary of State for India.

THE SLADE
BEQUEST.

In the same year with the Abyssinian spoils, came a noble addition to the Art Collections of the Museum by the bequest of the late Felix SLADE, and a rich addition to the Library, by the purchase of the Japanese books collected by the late Dr. VON SIEBOLD, during the later of his two visits to Japan, a country which he so largely contributed to make well known to the rest of the world.

Felix SLADE was the younger son of Robert SLADE, in his day a well-known Proctor in Doctors' Commons. Mr. William SLADE, elder brother of Felix, had inherited the

‘To the Phoenicians have been attributed the making of many little vases of peculiar form and ornamentation that are met with, not unfrequently, in tombs on the shores of the Mediterranean. They are of brilliant colours, with zig-zag decoration, and exhibit the same technical peculiarities, so that they must have been derived from one centre of fabrication. Of these vases there is a considerable series, showing most of the varieties of form and colour that are known.

‘The collection is especially rich in vessels moulded into singular shapes, found principally in Syria and the neighbouring islands, and which were probably produced in the workshops of Sidon, but at a later time; possibly as late as the Roman dominion. The Museum Collections were previously very ill provided with such specimens. To the same date must belong a vase handle, stamped with the name of ARTAS the Sidonian, in Greek and Latin characters.

‘Of Roman glass there is a great variety, as might be expected from the skill shown in glass-making during the Imperial times of Rome. Large vases were not especially sought after by Mr. SLADE, but two fine cinerary urns may be noticed, remarkable not only for their form, but for the beautiful iridescent colours with which time has clothed them. There is also a very fine amber-coloured ewer, with blue filaments round the neck, which was found in the Greek Archipelago; an elegant jug or bottle with diagonal flutings, found at Barnwell, near Cambridge, and a brown bottle, splashed with opaque white, from Germany. Of cut glass, an art which it was formerly denied that the Romans possessed, there are good examples; such, for instance, is a boat-shaped vase of deep emerald hue, and of the same make apparently as the Sacro Catino of Genoa; a

III. it is therefore a genuine specimen of ancient painting
 VI. on glass, of which but three other instances are known.

‘In the fourth and fifth century it was the habit to ornament the bottoms of bowls and cups with designs in gold, either fixed to the surface or enclosed between two layers of glass. These specimens have generally been found in the Catacombs of Rome; but two or three have been found at Cologne, one of which is in the collection. It is the remains of a disc of considerable size, with a central design, now destroyed; around are eight compartments, with subjects from the Old and New Testaments: Moses striking the Rock, the History of Jonah, Daniel in the Lions’ Den, the Fiery Furnace, the Sacrifice of Isaac, the Nativity, and the Paralytic Man; of these, the Nativity is a very rare representation.

‘Of glass of a Teutonic origin there is but one specimen in the collection, a tumbler of peculiar form, from a cemetery at Selzen, in Rhenish Hesse. Like other glasses of the time, it is so made that it cannot be put down until it has been emptied, and thus testifies to the convivial habits of the Teutons.

‘Of early Byzantine glass but little is known; the bowl with Diana and Actæon, already noticed, is very probably of that period; and a Byzantine cameo with the head of CHRIST should be mentioned.

‘Of glass of the middle ages, from the West of Europe, but little or nothing has been preserved save the exquisite painted glass in cathedrals and churches. Of the Eastern glass of the same period several specimens are in the collection. Among these is a very beautiful bottle, probably of the thirteenth century, decorated with a minute pattern of birds; a lamp of large size, made in Syria to hang in a mosque, bears the name of SHEIKHOO, a man of great wealth

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‘The coloured vases display most of the hues made at Venice; ruby, purple, green, and blue, as well as an opalescent white and an opaque white, the latter often diversified with splashes of other colours. To these may be added various imitations of agate, aventurine, &c. Another peculiar fabric of Venice is well illustrated, the frosted glass belonging generally to an early period.

‘In the production of millefiori glass the Venetians did not equal the ancients, either in harmony of colour or variety of design. The rosettes were formed of sections of canes, such as were employed in making beads. The specimens of this glass are rare, but there are not less than seven pieces so ornamented in the collection.

‘Of lace glass, one of the most remarkable productions of Venice, and which nowhere has been carried to such perfection, there are many fine specimens, both in form and delicacy of pattern, as there are likewise of the variety called reticelle. Among the latter is a tall covered cup with snakes on the cover and in the stem; there should also be noticed a drinking glass, in the stem of which is enclosed a half sequin of the Doge FRANCESCO MOLINO, 1647.

‘Of unquestionably ancient French glass but few specimens are known. This adds much to the value of a goblet in the collection, with enameled portrait of Jehan BOUCAU and his wife Antoinette, made about 1530.

‘German glass is fully represented: the earlier specimens are richly decorated with enamel, chiefly heraldic devices; they are dated 1571, 1572, &c. A few are painted like window glass, and among them is a cylindrical cup, dated 1662, on which is depicted the procession at the christening of MAXIMILIAN EMMANUEL, afterwards Elector of Bavaria. The later German specimens are engraved, and some of them by artists of note. Of ruby glass, another production

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OTHER
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RECENT
DAYS.

THE SPECI-
MENS OF
PRINTING
AND BIND-
ING IN THE
SLADE COL-
LECTION.

Pefetti, Pietro Anderloni, Raphael Morghen, Giuseppe Longhi, Garavaglio, and others. There are also some rare English portraits and book-illustrations.

‘The specimens of binding from the SLADE Collection (now placed in the Printed Book Department), continues the Report of 1869, are twenty-three in number, chiefly of foreign execution, and afford examples of the style of PADELOUP, DUSSEUIL, DEROME, and other eminent binders. One of the volumes, an edition of PAULUS ÆMYLIUS, *De gestis Francorum* (Paris, 1555, 8vo), is a beautiful specimen of the French style of the period, with the sides and back richly ornamented in the Grolier manner. An Italian translation of the works of Horace (Venice, 1581, 4to), is of French execution, richly tooled, and bears the arms of HENRY III of France. A folio volume of the *Reformation der Stadt Nürnberg* (Frankfort, 1566), which is a magnificent specimen of contemporary German binding, formerly belonged to the Emperor MAXIMILIAN THE SECOND, whose arms are painted on the elegantly goffered gilt edges. An edition of PTOLEMY’s *Geographica Narrationis libri octo* (Lyons, 1541, fol.) affords a fine illustration of the Italian style of about that date. The copy of a French translation of XENOPHON’S *Cyropædia*, by Jacques de VINTEMILLE (Paris, 1547, 4to), appears to have been bound for King EDWARD VI, of England, whose arms and cypher are on the sides, while the rose is five times worked in gold on the back. A volume of Bishop HAIL’S *Contemplations on the Old Testament* (London, 1626, 8vo), in olive morocco contemporary English binding, has the Royal arms in the centre of the sides, and appears to have been the dedication copy of King CHARLES THE FIRST.’ It is proposed, concludes the *Report*, to exhibit some of the most beautiful specimens comprised in Mr. SLADE’S valuable donation, in one of the select cases in the King’s Library.

T. Watts,
in *Returns*,
as above.

CHAPTER VII.

RECONSTRUCTORS AND PROJECTORS.

‘What do we, as a nation, care about books? How much do you think we spend altogether on our Libraries, public or private, as compared with what we spend on our horses? If a man spends lavishly on his Library, you call him mad,—a Bibliomaniac. But you never call any one a Horse-maniac, though men ruin themselves every day by their losses, and you do not hear of people ruining themselves by their books. Or, to go lower still, how much do you think the contents of the bookshelves of the United Kingdom, public and private, would fetch, as compared with the contents of its wine-cellars.’—

RUSKIN, *Sesame and Lilies*, pp. 75-77.

The various Projects and Plans proposed, at different times, for the Severance, the Partial Dispersion, and the Rearrangement, of the several integral Collections which at present form ‘The British Museum.’

BOOK III,
Chap. VII.
RECON-
STRUCTORS
AND PRO-
JECTORS.

GROSLEY'S
IDEA OF
SEVERING
THE MUSEUM
COLLEC-
TIONS, 1765.

THE first reconstructor, in imagination, of the British Museum on the plan of severing the literature from the scientific collections, was a speculative and clever Frenchman, Peter John GROSLEY, who visited it within less than six years of its being first opened to public inspection. GROSLEY expressed great admiration for much that he saw, and he also criticised some of the arrangements that seemed to him defective, with freedom but with courtesy. Some of my readers will probably think that he hit a real blot, at that time, when he said: ‘The Printed Books are the weakest part of this immense collection. The building cannot contain such a Library as England can form and ought to form for the ornament of its capital. It has a building quite ready in the “Banqueting-House” [at Whitehall], and that building could be enlarged from time to time as occasion might require.’

assemblage of *book-plates*, serving to illustrate and elucidate the literature of the Library.'

Be that as it may, the idea of removing either the Antiquities or the Printed Books has long ceased to be mooted. All who now advocate severance advise, I think, that the Natural History Collections should be removed, and none other than those. But hitherto the idea of severance, in any shape, has been uniformly repudiated both by Royal Commissions of Inquiry, and by Parliamentary Committees. The question, however, is sure to be revived, and that speedily. Ere long it must needs receive a final parliamentary solution—aye or no.

In this chapter I shall endeavour to state,—and as I hope with impartiality,—the main reasons which have been severally adduced, both by those who advocate a severance, and by those who recommend the continuance of the existing union of all the varied and vast Collections now at Bloomsbury. There can be no better introduction of the subject than that which will be afforded by putting before the reader, on the one hand, a detailed and well-considered plan which contemplated the maintenance of the Museum as it is; and, on the other, the elaborate report in favour of transferring the scientific collections to a new site,—in order to gain ample space at Bloomsbury for a great Museum of Literature and Archæology, such as should be in every point of view worthy of the British Empire,—which was approved of by a Treasury Minute more than eight years ago.

Of the several schemes and projects of extension which rest on the twofold basis of (1) the retention at Bloomsbury of nearly all the existing collections, with ample space for their prospective increase, and (2) such an effective internal

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RECON-
STRUCTORS
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JECTORS.

MR.
OLDFIELD'S
PROJECT OF
RECON-
STRUCTION
(1858-1860)—
continued.

FIRST
ASSYRIAN
ROOM.

thirty-seven feet of linear measurement, and in three table cases, would be arranged in wall cases, extending to three hundred and eighty-three feet, and in several table cases, of which the exact extent cannot be fixed.

The additional space here provided for large Egyptian sculptures is not so much needed for the present as is the case in some other series; but the greater comparative difficulty of moving objects so bulky makes it advisable to secure, as far as possible, the permanence of any rearrangement, by leaving room for the probable incorporations of future years. The accommodation provided for smaller objects is little more than they already require for advantageous display.

XIII. *First Assyrian or Nimroud Room.*—This room, on the site of the basement-room, would be formed by demolishing the small room, with the adjoining students' room and staircase; by extending over their site the glass roof of room; by throwing a floor, on a continuous level with those of the adjoining galleries, and supported upon iron pillars, over so much of room as is coloured brown in the plan; and by carrying up thin partitions from this floor to the glass roof, so as to inclose a new apartment. This apartment would, at the south end, extend across the whole breadth of room, but elsewhere it would be limited to a central space, nineteen feet wide, corresponding to the present central compartment of room, so as to leave open an area of ten feet wide on each side. The open areas would serve to light both the whole room below, of which the central portion would be partially obscured by the new structure, and also the rooms in the adjoining basements, which, though no longer used for exhibition, might be serviceable for other subordinate purposes. In one of the open areas might be a private staircase to the basement. Room XIII would be considerably loftier than the present 'Nimroud Side Gallery,' and it would contain two thousand nine hundred and seventy superficial feet, and three hundred and fourteen linear feet of wall-space, instead of two thousand one hundred and seventy-six superficial feet, and two hundred and seventy-eight feet of wall-space. In this new room would be placed the earliest of the Assyrian monuments, those of Sardanapalus I; at the south end those found in the two small temples at Nimroud, including the colossal lion, the arched monolith and altar, and the mythological figures from a doorway; in the northern portion, the sculptures from the North-west Palace at Nimroud, including the small winged lion and bull, now in room.

SECOND
ASSYRIAN
ROOM.

XIV. *Second Assyrian Room.*—This would contain a continuation of the series from Nimroud. On the west side the colossal winged lions now in the western compartment of the Assyrian Transept, which would complete the monuments of Sardanapalus I; in other parts of the room, the few but important sculptures of Divanubara, Shammaz-Phal,

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JECTORS.
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OLDFIELD'S
PROJECT OF
RECON-
STRUCTION
1858-1860—
continued.

department; they are at present divided like those of Sennacherib, and part exhibited in the 'Koyunjik Gallery,' part in the basement room; altogether they now extend to three hundred and seventy-three feet; but as the greater part might, in Room XVII, be very well arranged in double rows, and some of those in single rows might, without injury, be less widely spread, two hundred and twenty-five feet would suffice for their exhibition; of this space twenty-seven feet would be supplied by Room XVI, and the remainder by XVII. The centre of the room should be appropriated as the preceding, and the lighting similarly modified.

SUMMARY
OF ACCOM-
MODATION
FOR ASSY-
RIAN ANTI-
QUITIES.

SUMMARY OF THE ACCOMMODATION PROVIDED IN THE PLAN
FOR ASSYRIAN ANTIQUITIES.

<i>Amount of Wall-space now in use for Assyrian Bas-reliefs.</i>		<i>Amount of Wall-space in the Plan for Assyrian Bas-reliefs.</i>	
	Linear feet.		Linear feet.
Nimroud Side Gallery	. 278	Room XIII . . .	. 314
Nimroud Central Saloon	. 82	" XIV . . .	. 95
Assyrian Transept . .	. 125	" XV . . .	. 145
Koyunjik Gallery . .	. 242	" XVI . . .	. 344
Assyrian Basement Room	. 243	" XVII . . .	. 199
	970		1,097
Bas-reliefs in the middle of Basement Room . .	. 254		
	1,224		

It thus appears that the wall-space provided in the plan, though one hundred and twenty-seven feet more than the wall-space in the existing rooms, falls short by one hundred and twenty-seven feet of the total linear extent of the bas-reliefs, as now arranged. In lieu, however, of placing slabs in the middle of a gallery, as is done in the basement room, and as it would likewise be possible to do in XVI or XVII, it is thought better, in these last rooms, to provide the additional space by simply carrying up the slabs to a greater height.

The space for central cases for small objects, which is at present four thousand and eighty square feet in rooms would be eight thousand one hundred and seventy square feet in Rooms XVI and XVII, an amount so abundant as to supersede the necessity for any wall-cases.

The accommodation here provided for Assyrian antiquities is little more in quantity, though much better in quality, than the present.

730 LATER AUGMENTORS AND BENEFACTORS.

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STRUCTORS
AND PRO-
JECTORS.

MR.
OLDFIELD'S
PROJECT OF
RECON-
STRUCTION
(1858 1860)—
continued.

SIXTH
GREEK
ROOM.

SEVENTH
GREEK
ROOM.

EIGHTH
GREEK
ROOM.

NINTH
GREEK
ROOM.

tal, facing the great Greek gallery, might stand the semi-archaic Apollo, from Byzantium.

XXV. *Sixth Greek or Phigaleian Room*, thirty-eight feet by twenty-four.—Here would be the casts from the Temple of Theseus, and the sculptures and casts from the Temple of Wingless Victory, both of the middle of the fifth century, B.C.; also the Phigaleian collection, which is a somewhat later production of the same school. The friezes, arranged in two rows, would just fill the room.

XXVI. *Seventh Greek or Parthenon Room*.—Here would commence the grand suite of galleries for large sculptures, of which the general breadth would be forty-two feet, and the height from thirty to thirty-five feet. By its side would run a secondary suite, twenty feet wide, and from fifteen to twenty feet high, for minor specimens, of which the interest generally is rather archæological than artistic. These latter objects are both more conveniently classified, and more favourably seen, in small rooms; if placed in large galleries, beside grand monumental works, they lose importance themselves, whilst they fritter away the effect of what is really more valuable. The Seventh Greek Room, which is two hundred and forty-one feet long, would contain only the remains of the Parthenon; which might be arranged as indicated in the Plan, so as at once to keep the pedimental groups and the frieze from interfering with each other, and to distinguish, more accurately than is now done, the original connection or disconnection of the several slabs of the frieze. As we possess the entire frieze from the east end of the temple, and casts of the entire frieze from the west, these two are here arranged opposite each other, towards the middle of the two side walls of the room. On either side are the slabs from the north and south flanks of the temple, which are mostly disconnected. In front of the casts from the west is a proposed full-sized model of part of the entablature, supported by one original and five restored capitals, with the upper parts of their shafts, and incorporating ten of the metopes, so as to explain their original combination with the architecture. The total height of this model might be about eighteen feet. The metopes not included in it should be attached to the wall opposite, over the frieze. The finest of the pedimental groups would face the grand entrance from the Lycian Gallery, through which the whole might be seen in one view, from any distance less than forty-eight feet. If it were desired to retain the two small models of the Parthenon in the room, they might stand near the south end.

XXVII. *Eighth Greek or Erechtheum Room*, sixty-five feet by twenty-six, for monuments of the era between Phidias and Scopas, of which the principal are the remains of the Erechtheum.

XXVIII. *Ninth Greek, or Mausoleum Room*, one hundred and twenty feet in length, forty-two in breadth, and eighty across the transept.—

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STRUCTORS
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JECTORS.

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STRUCTION
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continued.

be placed adjacent, on the one side to the Greek, on the other to the Roman, sepulchral collections. The principal portion of the Etruscan Room would be fifty-five feet by forty, with additional recesses at the south end, the whole about twenty feet high. Two rows of pilasters would divide the room into three compartments, the central for the gangway, the other two to be fitted up as a series of tombs, of which the sides would be formed of the mural restorations, with fac-similes of paintings from Corneto and Vulci. Within these restored tombs would be such sarcophagi as we possess, found in the tombs themselves. The fac-similes of the painted roofs of two of the tombs might be fixed above them, at such a height as not to obstruct the light. In the central compartment, which contains six shallow recesses between the pilasters, might be monuments from various tombs other than those here restored.

XXXV. *Staircase Room*, forty feet by thirty, and of the same height as the three united stories of the western galleries.—Four successive flights of steps would be required to reach each floor. The landings between the first and second, and between the third and fourth flights, might each be supported by Caryatid or Atlantic figures, which would give the whole composition an ornamental effect, as seen from the east side. Beneath one side of this staircase might be a private one leading to the western basement.

To the north is another private staircase, conducting to the basement under the Greek galleries. The adjoining passage leads to—

FIRST
GRÆCO-
ROMAN
ROOM.

XXXVI. *First Græco-Roman Room*.—The Etruscan monuments are succeeded chronologically by the Græco-Roman, here placed so as to adjoin the galleries both of Greek and of Roman art. In accordance with the character of Græco-Roman sculpture, the apartments containing it should be somewhat ornamentally constructed and arranged, as in the great continental museums, where works of this class form the staple of the collections. The position of the principal objects in all this series of rooms is marked in the plan, without distinguishing them individually, as none are of such a character as to require any special architectural provision. The first room is one hundred and six feet by twenty-six, exclusive of the alcoves. Its height need not, for the display of statuary, exceed twenty feet; but if, for architectural effect, a vaulted ceiling is preferred, the height must be increased. In the Braccio Nuovo, in the Vatican Museum, which is probably the finest gallery of this kind in Europe, and has a cylindrical vault, with a central skylight, the proportion of height to breadth is about thirty-seven feet to twenty-seven; but in the darker climate of London the height should not, if possible, exceed the breadth.

SECOND
GRÆCO-
ROMAN
ROOM.

XXXVII. *Second Græco-Roman Room, or Rotunda*, sixty feet in diameter, and about sixty feet high in the centre, being surmounted by

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JECTORS.

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FIRST
ROMAN
ROOM.

SECOND
ROMAN
ROOM.

THIRD
ROMAN
ROOM.

FOURTH
ROMAN
ROOM.

MEANS OF
FUTURE
ENLARGE-
MENT.

PHENICIAN
ROOM.

SUPPLE-
MENTAL
ROOM.

would admit, whilst the rooms should be not less than twenty-five feet high.

XXXIX. *First Roman Room*, one hundred and ten feet by twenty-eight, exclusive of the alcoves.—It would contain mosaics, including those from Carthage, and miscellaneous sculptures, altars, architectural fragments, &c.; the mosaics indifferently placed on all sides of the room, the sculptures on the east side and against the two end walls.

XL. *Hall*, fifty-six feet by seventeen.—Here might be an entrance from Charlotte Street, which on many occasions would furnish a convenient relief to the principal entrance to the Museum. It would open immediately into the Rotunda, and through the vista beyond would be seen, in the distance, the east of the colossal head from Abousimbul. Within the two abutments of the Rotunda would be recesses for the attendants to sell catalogues, receive umbrellas, &c.

XLI. *Second Roman or Iconographical Room*, fifty-four feet by twenty-eight, without the alcoves.—This would contain the series of portrait statues and busts, in chronological order. The west, or dark side of the room, could only be used for very inferior sculptures.

XLII. *Third (or Anglo-) Roman Room*, the same size as the preceding, for Roman monuments found in this country. The rude character of many would admit of placing them on the west side.

XLIII. *Fourth Roman or Sepulchral Room*, eighty-two feet by twenty-six, containing Roman sarcophagi for which the west side might be partially available, and sepulchral cippi, and inscriptions. At the north-east angle would be a Columbarium, twenty-three feet by fourteen, fitted up like that in the present Sepulchral Basement Room, but with the advantage of a skylight.

[Then follows a Summary of Accommodation provided in the plan for Roman Sculptures, amounting to a superficial area (without alcoves) of eight thousand five hundred and fifty-eight square feet, and seven hundred and seventeen linear feet of wall-space.]

The first three rooms, when their contents sufficiently increased, would admit of an easy alteration, which would not merely increase the wall-space, but much improve the lighting, by simply inserting transverse walls between each window. Against these walls the sculptures would have a true side light, whilst those against the east wall would be protected from double lights. It may even be doubted whether such an arrangement should not be adopted in the first instance, without waiting till the additional accommodation is actually required.

XLIV. *Phœnician Room*, twenty-six feet square.—Here would be the *stelæ* and bas reliefs from Carthage and its vicinity, with the few Punic inscriptions which we possess. The room contains six hundred and seventy-six superficial feet, and eighty-eight of wall-space.

XLV. A similar room to the preceding, which, in case of necessity,

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PROPOSED
ETRUSCAN
APARTMENT.

TERRACOTTA
ROOM.

GALLERY OF
ROTUNDA.

ACCOMMO-
DATION FOR
TERRA-
COTTAS.

GLASS ROOM.

cases, eight feet high, extend to one hundred and forty-six feet of linear measurement; those ten feet high will, when the collection is fully arranged, extend to eighty-four feet; the whole therefore may be reckoned as equivalent to two hundred and fifty-one feet of cases, eight feet high. The total extent, however, of such wall-cases in the proposed gallery is four hundred and fifty-five feet. The projections also, with the tables and pedestals, may safely be estimated as providing twice the accommodation for vases painted on both sides which is now furnished by the dwarf central cases, besides exhibiting them much more conveniently. It should be added that the vases would be better lighted than at present; whilst the length and comparative openness of the gallery would produce a more striking impression on the passing visitor.

The accommodation here provided being so ample, it might be desirable to appropriate one compartment of the gallery to an exclusively Etruscan Collection, comprising not merely the pottery of the Etruscans, properly so called, but that for which they were really more distinguished in ancient times, their bronze and other metal work.

2. *Terracotta Room*.—Fifty-six feet by seventeen. As no windows could be made on the east side, there should be no cases on the west; but the western windows, which do not correspond with the others of this story, should extend from near the ceiling to four or five feet from the floor. A sloping case might then be placed in each window, for lamps and other small objects, requiring a strong light. Against the east wall should be cases for vases, and other large objects.

3. *Gallery of the Rotunda*.—From one hundred and eighty to one hundred and ninety feet in circumference, and about nine feet wide. The powerful light from the centre of the dome would be favourable to terracotta statuettes and bas-reliefs, which could all be contained in shallow wall-cases, that would not materially narrow the gangway.* The Townley Collection of bas-reliefs, now in the Second Vase Room, might be arranged in panels all round, so as to produce a decorative effect, agreeable to their original destination.

The entire space provided in these two rooms is much more than our terracottas can absolutely require; but this will facilitate an ornamental arrangement of the collection, appropriate to the character of the larger room. The small spaces between the Rotunda and the main building would serve for closets.

4. *Glass Room*, twenty-eight feet by twenty-six.—The fittings proper for glass being different from those of terracottas, it is desirable to give

* In the accompanying Plan (of the Parliamentary Report, 1860), pilasters of unnecessary size have been inadvertently introduced into this gallery, reducing both the extent of the wall-cases, and the breadth of the gangway, in a manner never intended.

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GEM ROOM.

capacious as the large separate case in the present British and Mediæval Room. The lighting would throughout be more advantageous for these collections than at present; and the rooms, from the character of the windows, might be bright instead of gloomy.

3. *Gem Room*.—As the contents of this and the succeeding room have more or less intrinsic value, an iron door might be placed at the end of the Mediæval Gallery, to be open only when the public are admitted to the Museum. The Gem Room, twenty-eight feet by twenty-seven, would be fitted like the preceding. The gems would occupy the table-cases, which would accommodate a far larger collection than ours, and would exhibit them in the best possible light for such objects. In the wall-cases might be displayed the gold and silver ornaments, which would have much more space than as now arranged, though in a room only of the same size.

COIN AND
MEDAL
GALLERY.

4. *Coin and Medal Gallery*, fifty-six feet by seventeen.—As the dome of the Rotunda would only rise a few feet above the floor of this gallery, and would, from its curvature, recede to a distance of several feet, windows on the east side would be quite unobstructed. In each might stand a table-case, six or seven feet long, on which would be exhibited, under glass, a series of coins and medals which, though not the most valuable of our collection in the eyes of a numismatist, would suffice to give the public an interesting and instructive view of the monetary art. In the drawers of these cases might be kept the moulds and casts of the Coin Collection. Against the side walls might be upright cases, or frames, for extending the exhibition; but the walls facing the windows, having a front light, would be unsuitable for coins or medals, and must be employed for some other purpose.

PRIVATE
ROOMS OF
COIN DE-
PARTMENT.

5. The rooms which remain would be a private suite for the Coin Department. The present rooms of that department are arranged in an order the reverse of what is best for security and convenience, the coins being kept in an outer room, which must be passed in going either to the Keeper's study, or to the Ornament Room, a room open to all persons merely on application. In the accompanying plan the contents of the Ornament Room have been transferred to the Gem Room; and the Keeper's study is placed near the beginning of the private suite.

OUTER COIN
ROOM.

Outer Coin Room, twenty-eight feet by twenty-seven, for the freer exhibition of coins to properly introduced persons, for the use of artists copying coins or other minute objects, and all other purposes now served by the Medal Room, except the custody of the collection, and work of the department.

INNER COIN
ROOM.

Inner Coin Room, fifty-five feet by twenty-eight, secured by a strong iron door, of which the Keeper, Assistant-Keeper, and Principal-Librarian, would alone have keys.—In this room, to which none but the

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SUMMARY OF
SPACE FOR
ANTIQUI-
TIES.

EXTRA
SPACE.

SPACE IN
BASEMENT.

SPACE
TRANS-
FERRED TO
NATURAL
HISTORY.

PUBLIC
GALLERIES.

STUDIES FOR
OFFICERS
AND STU-
DENTS.

SUGGESTION
FOR IN-
CREASING
THOSE FOR
STUDENTS.

a partial light from the openings between them. To increase this, however, and to furnish the only light to the basement under the Fourteenth Greek Room, and the apartments adjoining its west side, panels of strong glass or open metal work might be inserted at convenient places in the various floors, and serve rather as an ornament to them. With the aid of some such arrangement, the last-mentioned portions of the basement would serve as storing-rooms; in default of it, they could merely be available for any apparatus used in heating or ventilation.

[Then follows a General Summary of Additional Space provided for the Collections of Antiquities, amounting to a net addition of forty-one thousand nine hundred and fifty-six square feet of superficial area.]

This is somewhat less than the additional space demanded in the estimate supplied to the Committee by Mr. HAWKINS; but it supposes the removal of the Oriental and Ethnographical Collections, which Mr. HAWKINS, when considering only the existing department, and not the question of its modification, included in its contents.

In addition, however, to the space provided for the collections, the new buildings would comprise about eight thousand six hundred feet on the three principal floors, for studies, closets, staircases, &c.

The space in the basement it is unnecessary to estimate in detail, being manifestly superabundant for its purpose.

The Plan of the Upper Floors shows the accommodation which might be provided, upon the present scheme, for the Departments of Natural History, by transferring to them the galleries and studies on that floor now occupied by Antiquities, and constructing an upper room on the site of the staircase, to unite the Central Saloon (Return 379, Plan 18, No. 1), into which the new principal staircase would conduct, with the galleries so transferred. The apportionment of the space amongst the different collections of Natural History must be left to more competent authorities than the present writer. He may, however, add a few words on the general character of the apartments comprehended in the transfer. The public galleries are similar to the present Zoological Galleries, not merely in their structure, but in their fittings. The wall-cases, therefore, might be available, without alteration, for the new collections; and the central cases might either be retained for Natural History, or removed to the new upper floors for Antiquities, as was found more convenient. The present Medal and Ornament Rooms might serve for the use of students, whilst the four private studies numbered 6, 7, 10, and 10 in Plan 18, would be used by the officers. The rooms for students might, if necessary, be further increased by a trifling alteration, in the event of the official establishment being transferred to the east of the Museum. In place of the closet adjoining the Medal Room, a private staircase might descend by a few steps to the entresol below, the whole of which might then be made an appendage to the upper, instead of the lower



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floor, and would furnish two convenient rooms for students, over those numbered 4 and 6 in Plan 17. The same staircase, falling in with one already existing between the entresol and Secretary's Office, would supply a private communication between the upper and lower floors, in lieu of that abolished for the construction of the First Egyptian Room (III, 69).

The total area of the apartments transferred to Natural History may be summarily stated thus:—

		Without Entresol.	With Entresol.
Public Galleries :			
Present Galleries of Antiquities .	19,185		
Proposed room over III (69) .	2,660		
		21,845	21,845
Students' Working Rooms . . .	. . .	1,749	3,168
Officers' Studies	. . .	868	868
Closets, Passages, and Staircase .	. . .	936	1,557
Total addition	. . .	25,398	27,438

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JECTORS. . .

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OLDFIELD'S
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STRUCTION
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continued.

SUMMARY OF
SPACE FOR
NATURAL
HISTORY.

Independently of the increased accommodation, the advantage of acquiring for Natural History the exclusive possession of the upper floor is obvious and unquestionable, though the gain is not limited to that department. By separating its galleries entirely from those of Antiquities, the practical superintendence of each would be simplified; one department would no longer be a necessary thoroughfare to another; the confusion of ideas experienced by ordinary visitors from the juxtaposition of collections so incongruous would be avoided; and as each department would have a separate entrance, a facility would be given for varying their periods or regulations of admission, as the circumstances of each might at any time require; considerations which must hereafter acquire increasing weight in proportion to the increasing magnitude of the Museum.

CONVENI-
ENCE OF
GIVING IT A
DISTINCT
FLOOR.

The ground immediately round the Museum, on the average of its three sides, is valued in the Report of the Special Committee of Trustees (twenty-sixth November, 1859), at about forty-three thousand five hundred pounds per acre. The houses in Charlotte Street are inferior in character to those on the other two sides, and might doubtless be purchased at a proportionately less price; but the writer, being anxious to err only on the safe side, assumes the average price as necessary. The ground proposed to be taken is about four hundred and fifty feet long, by a breadth generally of one hundred and fifty feet, but at the south end not exceeding one hundred and ten feet; so that the total area is about sixty-four thousand seven hundred square feet, or somewhat

ESTIMATE OF
APPROXI-
MATE EX-
PENSE.

EXPENSE OF
GROUND.

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STRUCTION
(1868-1880)—
continued.
OF BUILD-
INGS.

less than an acre and a half. The price, therefore, may be set down at sixty-five thousand pounds.

Buildings are estimated in the same report to cost about two pounds per square foot, reckoned upon the total internal area of the principal floors, without the basement. This calculation is founded on buildings consisting of a basement, a ground floor, and one upper floor. The buildings proposed by the writer are in one respect more costly than these, as their basements bear a larger proportion to those floors on which the cost is calculated. But in two other respects they are more economical:—1. Because they include, in one part, a second floor, which swells the space from which the expense is calculated, without involving any addition to the basement. 2. Because some of the galleries on the ground floor are not really separate buildings, but parts of a single block of buildings, subdivided merely by partition walls. On the whole, therefore, the estimate of two pounds per foot seems the safest basis of calculation.

Now the quantity of internal area or floor space in the proposed new buildings is—

For the collections . . .	71,760 square feet.
For studies, staircases, &c. . .	8,600 „
Total . . .	80,360 „

This gives, therefore, one hundred and sixty thousand seven hundred and twenty pounds for buildings, which, added to sixty-five thousand pounds for ground, would amount to two hundred and twenty-five thousand seven hundred and twenty pounds. A further sum must be added for alterations of the existing building, particularly for the removal and reconstruction of the staircase, and the formation of the two rooms described as III (69) and XIII (15). Assuming the expense of these alterations, quite conjecturally, at ten thousand pounds, the total cost would be two hundred and thirty-five thousand seven hundred and twenty pounds. The largeness of the valuation allowed for the ground gives reason to believe that the actual expense of ground and buildings would not exceed, and might probably fall short of, this estimate.

[In concluding his remarks on this plan of reconstruction, Mr. OLDFIELD points out that if ever hereafter further extensions should be required, they might be obtained without material disturbance of the proposed galleries. For Antiquities, one or more additional houses might be purchased either in Bedford Square, commencing with No. 4, or in Charlotte Street, commencing with No. 3. The former would be required for the prolongation of the Greek, Græco-Roman, or Roman Galleries; the

MEANS OF
FUTURE EX-
TENSION.

*Appendix to
Minutes of
Evidence,
1860, pp. 245,
ad fin.*

latter for the Etruscan or Phœnician. For the minor collections on the upper floors either side would be equally appropriate. If further space were needed for Natural History, galleries might be built as suggested by Professor MASKELYNE, extending either northwards to Montague Place, or eastwards to Montague Street, as found convenient.]

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JECTORS.

To the clear and forcible exposition of his plan, thus given by its framer in the paper submitted to the Committee of 1860, many further elucidations were added in evidence. But enough has already been quoted for the perfect intelligibility of the plans so proposed for the sanction of the Trustees and of Parliament. 'I think,' said Mr. OLDFIELD, when questioned, in the Committee, as to the extent of provision *for the probable future* requirements of the Museum, 'the proper mode is to secure so much space as will at least meet those demands which are likely to occur during the construction of the building; and then, above all, to adopt a system of construction which would at any future time admit of an extension, without derangement of that which now exists, and so would obviate the very great expense and inconvenience which has hitherto occurred from alterations and reconstructions.'

*Minutes of
Evidence,
June, 1860,
Q. 2034, p.
143.*

In reporting upon this plan, originally framed in 1858, the Committee of 1860, after comparing with it two other but only partial plans of extension and rearrangement, prepared respectively by Mr. Sydney SMIRKE and by Mr. Nevil STORY-MASKELYNE, observe: 'Your Committee have reason to think that if any of these plans were adopted—involving the [immediate] purchase of not more than two acres of land, with the [immediately] requisite buildings and alterations—the cost would not exceed three hundred thousand pounds. If, however, only this limited portion of land should be at once acquired, it is probable that the price of what remains would be enhanced. If the whole were to

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JECTORS.

be purchased, as your Committee have already recommended, the cost above stated would be, of course, increased.'

The recommendation here referred to has been already quoted in a preceding chapter, together with a statement of the grounds on which it was based.

See Chap. III
of Book III.

The only additional elucidation, on this head, which it seems necessary to give may be found in a passage of the evidence of one of the Trustees, Sir Roderick MURCHISON, who, in 1858, with other eminent men of science, presented a Memorial to the then Chancellor of the Exchequer, praying that the British Museum might *not* be dismembered by any transference of the Natural History Collections to another locality. After saying: 'I entirely coincide still in every opinion that was expressed in that Memorial, and I have since seen additional and stronger reasons for wishing that [its prayer] should be supported,' Sir Roderick added: 'When it was brought before us [that is, before a Sub-Committee of Trustees] in evidence, that if we were largely to extend the British Museum at once *in situ*, and that as large a building were to be made *in situ* as might be made at Kensington, we then learned that the expense would be greater. But I have since seen good grounds to believe that by purchasing the ground rents or the land, to north, east, or west, of the Museum, according to a plan which I believe has now been prepared and laid before the members of the Committee [referring to that of Mr. OLDFIELD, just described], and availing ourselves of the gradual * power of enlargement the Nation would be put to a much less expense for several years to come, and would in the end realise all those objects which it is the aim † of men of science to obtain.'

Minutes of
Evidence,
1860, Q. 1243-
1250, pp. 102,
103.

* Printed by oversight 'general' in the *Minutes of Evidence*.

† Printed 'object' in *Minutes of Evidence*, as above.

The chief alternative plan is based on the transference of the Natural History Collections to an entirely new site, and on the devotion to the uses of the Literary and Archæological Departments of the Museum of the whole of the space so freed from the scientific departments.

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JECTORS.

The Committee of 1860 condemned this plan in the main (but only, as it seems, by a single voice upon a division), but what that Committee had under consideration was only the first form into which the plan of separation had been shaped. At the end of the year 1861 and beginning of 1862, that plan was again brought before a Sub-Committee of the Trustees, at the express instance of the Lords of Her Majesty's Treasury, and it was thus reported upon:—

PLAN FOR
THE TRANS-
FERENCE
OF THE
NATURAL
HISTORY COL-
LECTIONS TO
KENSINGTON
(OR ELSE-
WHERE).
1861-62.

Your Committee, to whom it has been referred to consider the best manner of carrying into effect the Treasury Minute of the thirteenth of November, 1861, and the Resolution passed at the special general meeting of the third of December of the same year, have unanimously agreed to the following report:*

REPORT OF
SUB-COM-
MITTEE OF
TRUSTEES,
Jan., 1862.

The Lords Commissioners of Her Majesty's Treasury state in that Minute, 'That, in their judgment, some of the collections ought to be removed from the present buildings, and that they will be prepared to make proposals at the proper time to the Royal Commissioners of the Exhibition of 1851, with a view to the provision, on the estate of the Commissioners, of space and buildings, which shall be adequate to receive in particular, at first the Mineralogical, Geological, and Palæontological Collections, and ultimately, in case it shall be thought desirable, all those of the Natural History Departments.' Their Lordships, after having invited the Trustees to prosecute the further examination of the question, continue as follows:—'It will have to be considered what other or minor branches of the collections may, with propriety or advantage, be removed to other sites, or even made over, if in any case it might seem proper, to other establishments.'

MINUTE OF
TREASURY.

* It is to this Report of 1862 that the accompanying lithographic fac-similes of the original illustrative plans belong. Two of them show the then existing arrangements of the principal floors; the other two show the then proposed alterations and re-arrangements.

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JECTORS.

ALL COLLEC-
TIONS OF
NATURAL
HISTORY TO
BE REMOVED.

Your Committee have, therefore, thought it their duty at the outset to examine whether all the Natural History Collections, viz. the Zoological and Botanical, in addition to the Geological, Palæontological, and Mineralogical, specified in the Treasury Minute, might with propriety and advantage be removed from the present British Museum buildings. The importance, as regards science, of preserving together all objects of Natural History, was forcibly urged by Sir R. MURCHISON, at the special general meeting of the third of December. In a Memorial laid before the Chancellor of the Exchequer in 1858, and signed by more than one hundred and twenty eminent promoters and cultivators of science,* it was represented 'that as the chief end and aim of natural history is to demonstrate the harmony which pervades the whole, and the unity of principle, which bespeaks the unity of the Creative Cause, it is essential that the different classes of natural objects should be preserved in juxtaposition under the roof of one great building.' Your Committee concur in this opinion, and they have come to the conclusion that it is essential to the advantage of science and of the collections which are to remain in Bloomsbury, that the removal of all the objects of Natural History should take place, and, as far as practicable, should be simultaneously effected.

BOTANY.

With regard to Botany, it is a question whether the existence of the Royal Botanical Gardens at Kew does not suggest an exception as to the place to which the British Museum Botanical Collection should be removed, reserving a small series for the illustration of fossil Botany, in connexion with Palæontology.

It is to be kept in view that the removal of the Palæontology, Geology, and Mineralogy, would leave unoccupied only two very inconveniently placed rooms in the basement, besides the north half of the north gallery on the upper floor (about four hundred feet in length, by thirty-six in width); whereas the recently imported marbles from Halicarnassus, Cnidus, Geronta, and Cyrene, fill completely the space under the colonnade, extending to about five hundred and forty feet in length. Nor can your Committee omit to add, that should the removal of the Botany and Zoology be delayed, the final and systematic arrangement of the collections which are to remain must be equally delayed; while, if any portions of these were removed to other situations in the Museum, or their final transfer postponed, many of the objects retained would have again to be shifted for the sake of congruity and economy of space.

It is, therefore, recommended by your Committee, that all the Natural History Collections be speedily and simultaneously removed.

ETHNOLOGI-
CAL COLLEC-
TION TO BE
REMOVED.

Together with these the Ethnological Collection ought to be provided

* Parliamentary Return, No. 456, of the Session 1858.

for elsewhere. Most of the objects which it contains have no affinity with those which are contained in the other parts of the Museum, nor is the collection worthy of this country for its extent, nor yet, owing to its exceptional character, is it brought together in a methodical and instructive manner. Occupying but a secondary place in the British Museum, it cannot obtain either the space or the attention which it might obtain, were it not surrounded and cast into the shade by a vast number of splendid and interesting objects which have irresistible claims to preference. Mr. HAWKINS was of opinion, 'that if Ethnography be retained,' it would be necessary to quadruple the space for its exhibition. The Select Committee in their report (p. vii), state that 'they have received evidence from every witness examined on this subject in favour of the removal of the Ethnographical Collection.' If it were to be retained, an area of ten thousand feet (same report, p. xi) would be required. Your Committee cannot, therefore, hesitate to recommend the removal of the Ethnographical Collection to a fitter place. Nor can they hesitate in proposing the removal, from the present Ornithological Gallery, of the Collection of Portraits hanging on the walls above the presses containing the stuffed birds. Those paintings having no connexion with the objects for the preservation of which the Museum was founded, would never have been placed there had there been a National Portrait Gallery in existence for their reception.

BOOK III,
Chap. VII.
RECON-
STRUCTORS
AND PRO-
JECTORS.

PORTRAITS

The following is a detailed statement of the space which would be left vacant in various parts of the Museum by the removal of the above collections. . . .

SPACE LEFT
VACANT.

Then follows an enumeration, first, of the space left vacant by the removal of the Geological, Palæontological, and Mineralogical Collections, amounting in the whole to an area of twenty thousand one hundred and thirty-five feet; secondly, of the space left vacant by the removal of the Zoological Collection, amounting to an area of thirty-five thousand four hundred and twenty-eight feet; thirdly, of the space left vacant by the removal of the Botanical Collection, amounting to five thousand nine hundred feet; and, finally, of the space left vacant by the removal of the Ethnological Collection, namely, a room on the south side of the upper floor, marked '3' on the plan, ninety-four feet by twenty-four, giving an area of two thousand two hundred

K III,
P. VII.
ON-
UCTORS
, PRO-
FORS.

and fifty-six feet; and giving, in the whole, an aggregate area of sixty-five thousand and seventy-nine feet.

ASURY
UTE;
ERATION
'PRESENT
LDING.

Having enumerated the collections which might, with propriety and advantage, be removed from the British Museum, and stated the extent of new accommodation which would consequently be gained for other collections, the Committee proceeded to consider, in the words of the Treasury Minute, 'the two important questions—first, of such final enlargement and alterations of the present buildings as the site may still admit, and as may be conducive to the best arrangement of the interior; secondly, of the redistribution of the augmented space among the several collections that are to remain permanently at the Museum, among which, of course, my Lords give the chief place to the Library Departments and the Antiquities.'

The Committee, agreeing with their Lordships that the chief claims in the redistribution of the augmented space are those of the Antiquities and of the Library Departments, then proceed to say that—

They have thought themselves bound also to pay attention to certain other important purposes, to which a portion of the space to be obtained by alterations within and by building on some remaining spots of unoccupied ground, might be beneficially applied.

STEE'S
ICES.

Your Committee have, in the first place, had their attention drawn to that part of the existing buildings appropriated to the administrative department of the Museum. The want of space for clerks, for Museum publications, for stationery, for the archives of the Trust, for papers of all descriptions, for the transaction of business with officers and servants of the Trustees, and with tradesmen, as well as the want of a waiting-room for strangers of all ranks who have to attend on the Trustees, or wish to have interviews with their chief officer or any of the persons attached to his office, is the cause of great embarrassment and discomfort. To which is to be added the inconvenience caused by the unsuitable arrangement of the rooms, which renders those who occupy them liable to perpetual interruptions. Moreover, by the strict rule forbidding the admission of artificial light into the Museum, the period of available working time is occasionally much abridged. Another site

must be found for this department; there are no means of providing on its present site against the evils above mentioned.

In the next place, your Committee have taken into consideration the absolute necessity of providing for the exhibition of specimens of coins and medals, always intended by the Trustees, but never carried into effect for want of space. And not only a selection of coins and medals, but also one of gems, cameos, and valuable ornaments, should be exhibited to Museum visitors. The want of room for such a purpose is the source of great trouble and inconvenience. The present Medal Room is much too confined even for the arrangement and preservation of its contents, and for such accommodation of its officers as is necessary to enable them to perform properly their duties. Moreover, as visitors cannot be indiscriminately admitted to the Ornament Room, still less to the Medal Room, such of them as do not take the proper steps for gaining access to those rooms are debarred from seeing even specimens of objects which acquire a peculiar interest in proportion to the strictness with which they are guarded. The general visitors should have an opportunity of satisfying their laudable curiosity by seeing a good selection of coins, just as they can at the present time see interesting specimens of manuscripts and printed books; scholars and persons who have special reasons for examining coins leisurely and minutely, ought to have the means of doing so comfortably under proper regulations, and in a separate room, in the same manner as readers are allowed to use books; but no stranger should be admitted into the room where the Collection of Coins and Medals is preserved unless in rare and exceptional cases, and always in the presence of the Principal Librarian, or the keeper of the department.

In the third place, your Committee, being aware of the importance of space for the due exhibition of prints and drawings, and of the repeated complaints of the keeper of that department, who cannot find room wherein to arrange the collection so as to have it safely preserved as well as readily accessible, have given their best attention to those complaints. Most of the inconveniences which are felt by visitors, as well as by Museum officers, in the existing Medal Room, are equally felt in the existing Print Room; and many of the wants which it is suggested should be provided for to make the Collection of Coins and Medals as useful and instructive as it ought to be in a great national institution, are wants against which provision must be made in order to render equally useful and instructive the Collection of Prints and Drawings. These wants are ample space for classing, arranging, and preserving the bulk of the collection, as well as ample space wherein to exhibit, for the amusement and instruction of the public generally, such a selection of prints and drawings as may be calculated to give a general notion of both arts from their infancy to comparatively modern times, in various

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RECON-
STRUCTORS
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JECTORS.
EXHIBITION
OF COINS
AND
MEDALS.

EXHIBITION
OF PRINTS
AND DRAW-
INGS.

OK III,
ap. VII.
CON-
STRUCTORS
D PRO-
CTORS.

countries, and according to the style of the most celebrated masters. Studies should likewise be provided for the keeper, and also for an assistant-keeper, in this department, as well as accommodation for artists who come to copy or study critically any of the objects, or classes of objects, forming part of this collection, and for those who come for the purpose of researches requiring less minute attention, and who desire to see a variety of prints and drawings in succession.

NDERS'
OFF.

In the fourth place, your Committee have taken into consideration the want of space for carrying on the binding of the Museum books. The Collection of Manuscripts, and, much more, that of Printed Books, have of late years been increasing with unexampled rapidity; but the bookbinders' accommodation has not been increased in a corresponding ratio. The damage caused, particularly to new books, placed unbound in the readers' hands, may well be conceived; and the Trustees were compelled, by the necessity of the case, to sanction an expedient of doubtful legality, by allowing a large number of books, which in case of misfortune might be easily replaced at a comparatively small outlay, to be taken out of the Museum to be bound in a house immediately opposite to it, hired by the bookbinder. Your Committee think that such an arrangement, avowedly a temporary one, ought not to continue a moment longer than is unavoidable; and that adequate provision should be made as speedily as possible within the Museum premises for binding all books belonging to the Trust.

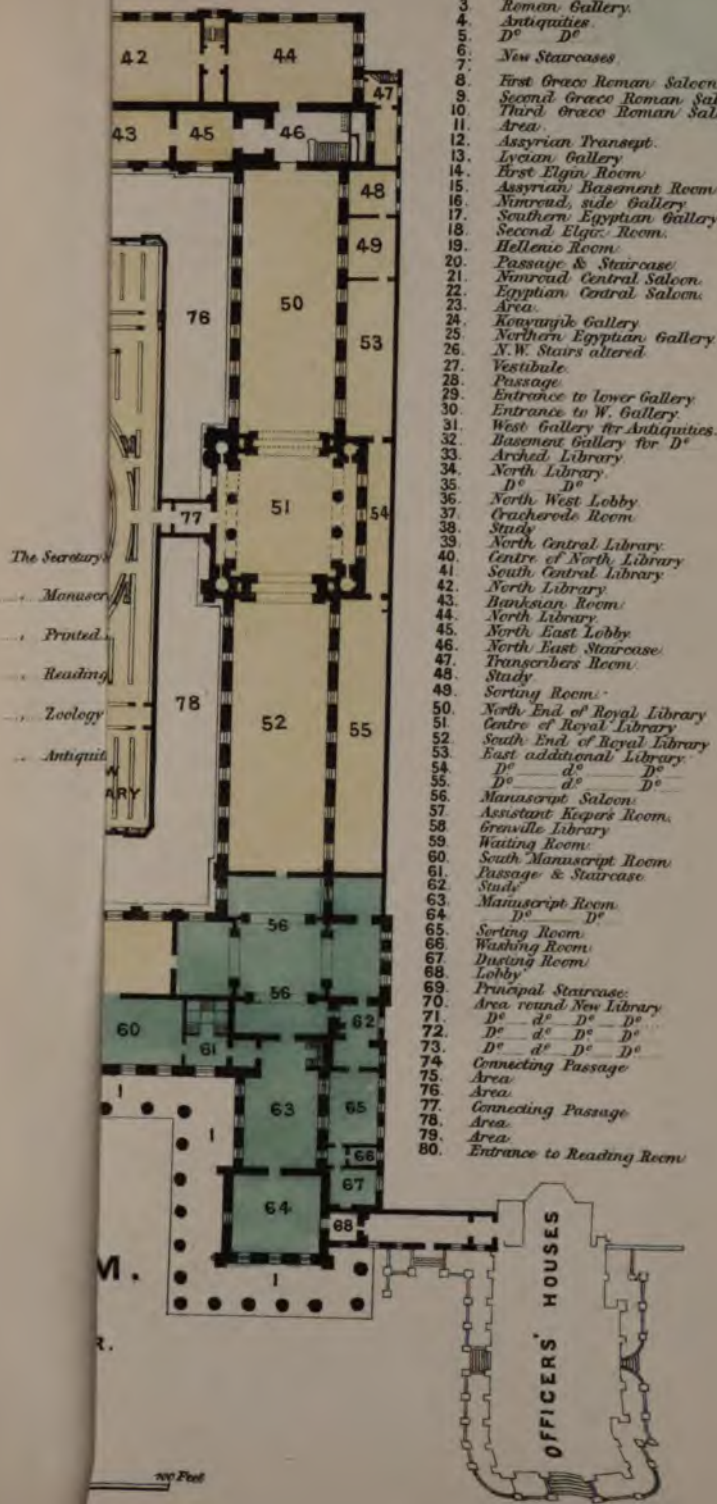
TERA-
ONS AND
:-DISTRIBUTION
OF
ACK GENE-
LLY.

Your Committee will now proceed to consider the questions of the final enlargement and alterations of the present buildings, and of the redistribution of the augmented space for the several purposes above mentioned. In making the following proposals, your Committee have kept in view the principle that it would not be advisable for the Trustees to appropriate specifically to particular objects any particular space. They will, therefore, as much as possible, confine themselves to stating how the augmented space should be generally redistributed among the remaining collections, giving the chief place to the Antiquities and Library; the arrangement of the particular objects or classes of objects should rest on the responsibility of the head of each department, who would in due time submit his views to the Trustees. Your Committee also wish it to be clearly understood that the structural details herein suggested or implied, must be considered liable to such modifications as the farther development of the scheme may require.

KW STAIR-
SES.

In the building, as now arranged, the principal staircase (No. 69 on the plan of the ground floor) is situated on the left in the Entrance Hall (No. 2); opposite to the entrance is the corridor (No. 80) leading to the Reading-Room; east and west of that corridor, between the main building and the new Library, there is an area (No. 70 and 79) about thirty feet wide unoccupied. It has long been suggested that the prin-

TABLE OF REFERENCES.



1. Front Colonnade.
2. Entrance Hall.
3. Roman Gallery.
4. Antiquities.
5. D^o D^o
6. New Staircases.
- 7.
8. First Græco Roman Saloon.
9. Second Græco Roman Saloon.
10. Third Græco Roman Saloon.
11. Area.
12. Assyrian Transept.
13. Lycian Gallery.
14. First Elgin Room.
15. Assyrian Basement Room.
16. Nimrod, side Gallery.
17. Southern Egyptian Gallery.
18. Second Elgin Room.
19. Hellenic Room.
20. Passage & Staircase.
21. Nimrod Central Saloon.
22. Egyptian Central Saloon.
23. Area.
24. Kouyungik Gallery.
25. Northern Egyptian Gallery.
26. N.W. Stairs altered.
27. Vestibule.
28. Passage.
29. Entrance to lower Gallery.
30. Entrance to W. Gallery.
31. West Gallery for Antiquities.
32. Basement Gallery for D^o.
33. Arched Library.
34. North Library.
35. D^o D^o
36. North West Lobby.
37. Cracherode Room.
38. Study.
39. North Central Library.
40. Centre of North Library.
41. South Central Library.
42. North Library.
43. Banksian Room.
44. North Library.
45. North East Lobby.
46. North East Staircase.
47. Transcribers Room.
48. Study.
49. Sorting Room.
50. North End of Royal Library.
51. Centre of Royal Library.
52. South End of Royal Library.
53. East additional Library.
54. D^o D^o
55. D^o D^o
56. Manuscript Saloon.
57. Assistant Keeper's Room.
58. Grenville Library.
59. Waiting Room.
60. South Manuscript Room.
61. Passage & Staircase.
62. Study.
63. Manuscript Room.
64. D^o D^o
65. Sorting Room.
66. Washing Room.
67. Drying Room.
68. Lobby.
69. Principal Staircase.
70. Area round New Library.
71. D^o D^o D^o D^o
72. D^o D^o D^o D^o
73. D^o D^o D^o D^o
74. Connecting Passage.
75. Area.
76. Area.
77. Connecting Passage.
78. Area.
79. Area.
80. Entrance to Reading Room.



cipal staircase should be removed from No. 69, and that two staircases be erected on the area 70 and 79, one on each side of No. 80. The hall entrance (No. 2) would be lighted by the skylight already existing in the roof, and by a corresponding opening to be made in the upper floor. The site of the principal staircase, No. 69, would be occupied by a large room, seventy-five feet by thirty-five, giving an area of two thousand six hundred and twenty-five feet, exactly like the one opposite to it (No. 58) in height as in every other respect, with a floor on a level with the rest of the building.

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RECON-
STRUCTORS
AND PRO-
JECTORS.

There are blank windows on the north side of the principal staircase that would have to be cut through to light the new room, and additional light could be admitted if necessary. On the south of the projected new room is a narrow room, ninety-four feet by twenty-four (No. 3), designated as the Roman Gallery, the light of which is very defective, especially on the side of the windows opening under the front colonnade. The Collections of Antiquities contain some large objects, more interesting archæologically than artistically, for which light on each side of them is very desirable. If the wall now separating the staircase from No. 3 were removed, and pilasters or columns substituted (the upper part of that wall in the floor above might likewise be removed if desirable), a room ninety-four feet by sixty, giving an area of five thousand six hundred and forty feet, admirably adapted for antiquities of this kind, would be obtained.

PRESENT
ROMAN
GALLERY.

At the western extremity of the Roman Gallery (No. 3), and turning southward, are the Trustees' room (No. 4), two rooms for clerks (No. 5 and 6), and the study of the Principal-Librarian (No. 7). It is proposed to remove all the partition walls inside the space occupied by No. 4, 6, and 5, and by the corridor on the east of No. 4, and to open windows on the west side at the same height, and uniform with those in the gallery No. 17, of which this part of the building would then be a continuation, opening a communication like that on the corresponding side on the east (between No. 56 and 63). The Egyptian Gallery might thus be extended to the total length of four hundred and sixty-five feet.

TRUSTEES'
PRESENT
OFFICES.

By removing the corridor and study No. 7, as well as the projection on the north side of the house now occupied by Mr. CARPENTER, so far west as the point at which it would intersect a prolongation to the south of the west wall of the first Elgin Room, a plot of unoccupied ground, one hundred feet by seventy-five, might be turned to great advantage. The interior arrangement of this newly acquired space would depend on the purposes to which the Trustees should think fit to apply it; whether, for instance, it might be advisable to throw into it the third Græco-Roman Saloon (No. 10), which is now by common consent too narrow, or whether the western part of that plot of ground had not better be set out as a continuation of the Elgin Room, which should be carried

NEW BUILD-
INGS ON
No. 11.

BOOK III,
Chap. VII.
RECON-
STRUCTORS
AND PRO-
JECTORS.

SPACE
ACQUIRED
(No. 4, 5, 6, 7,
10, 11, 13).

BUILDINGS
ON No. 31
AND 32, AND
ALTERATION
OF PRESENT
PRINT
ROOM.

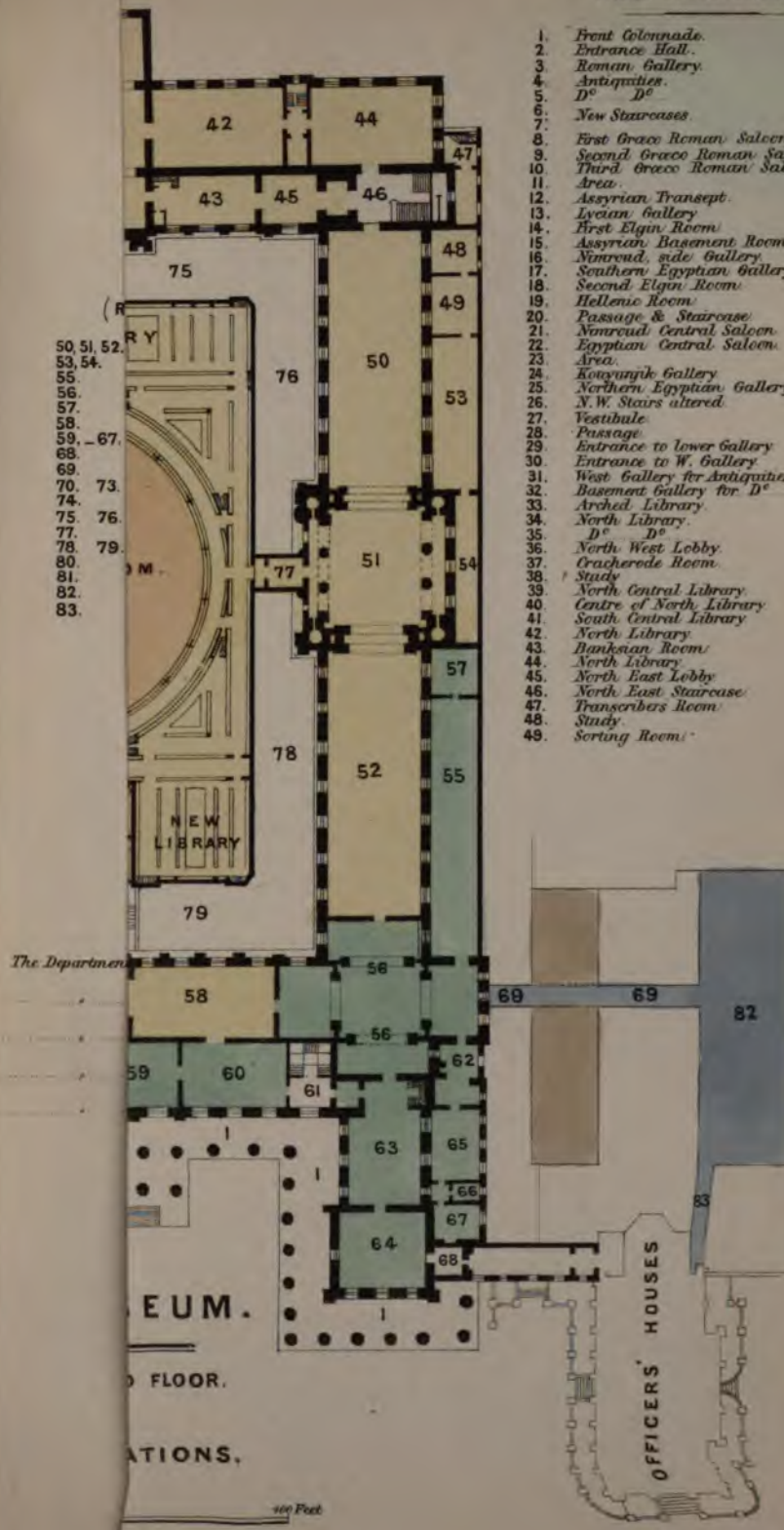
ALTERATION
OF STAIR-
CASE, No. 27.

through the end of the above room (No. 10) and of the Lycian Room (No. 13). Before finally deciding this point it would be imperative to determine what is to be done with the Lycian Room, which is in an unfinished state, because it neither is nor ever was large enough for the collection for which it was intended; whilst, on the other hand, it contains objects which ought never to have been placed there, and which ought to be removed. Until the keeper of the department has before him a correct plan of all the space which he may eventually have at his disposal, and until he has well considered how the objects to be placed ought to be arranged, he cannot give a decided opinion upon any scheme for building on the plot now under consideration. For the present purpose it is enough to say that the Trustees' room and those annexed (No. 4, 5, and 6), giving an area of about two thousand nine hundred and fifty feet on the ground floor, and a large piece of ground, one hundred feet by seventy-five, may be beneficially applied to the Department of Antiquities.

No. 14 and 18 are the two Elgin Rooms, containing the finest reliques of Greek art in existence, which have remained unarranged for years, owing to the difficulties which the space hitherto available presented for their definitive arrangement, and to the uncertainty of the final appropriation of the space No. 31. It seems, however, to be generally admitted that on the unoccupied plot of ground, No. 31, a continuation of the second Elgin Room should be erected of the same width, to include the Print Room, the floor of which should be lowered to the general level of the Museum ground floor, and its width extended westward about seven feet. Another gallery might thus be formed altogether four hundred and seventy-five feet long and thirty-seven wide. Should it not extend farther than the southern extremity of the first Elgin Room (No. 14), its length would be three hundred and thirty feet. The plot of ground, No. 32, ought also to be applied to the accommodation of Antiquities. The study No. 23 should be done away with. The two lower flights of the N.W. staircase, No. 27, should be taken down and reconstructed in No. 26 and 36, with the necessary alterations to reconnect them with the two upper flights, which would remain as they are now. The studies No. 28, and passage No. 29, should be cleared away, as well as those above them, together with the lower part of the western wall of No. 27, the southern wall of that space being continued to No. 30, thus forming a passage or gallery, about twenty-two feet wide, for communication between the Northern Egyptian Gallery and the new gallery to be erected at the north of the Elgin Rooms. From the new passage thus formed there should be an opening on the south side, and a flight of steps to descend to the gallery which is to be built on No. 32. There would be room under the new staircase, in the space No. 36, to form an additional study for the Printed Book

TABLE OF REFERENCES.

1. Front Colonnade.
2. Entrance Hall.
3. Roman Gallery.
4. Antiquities.
5. D^o D^o
6. New Staircases.
- 7.
8. First Græco Roman Saloon.
9. Second Græco Roman Saloon.
10. Third Græco Roman Saloon.
11. Area.
12. Assyrian Transept.
13. Lycian Gallery.
14. First Elgin Room.
15. Assyrian Basement Room.
16. Nimroud, side Gallery.
17. Southern Egyptian Gallery.
18. Second Elgin Room.
19. Hellenic Room.
20. Passage & Staircase.
21. Nimroud Central Saloon.
22. Egyptian Central Saloon.
23. Area.
24. Kouyunjik Gallery.
25. Northern Egyptian Gallery.
26. N.W. Stairs altered.
27. Vestibule.
28. Passage.
29. Entrance to lower Gallery.
30. Entrance to W. Gallery.
31. West Gallery for Antiquities.
32. Basement Gallery for D^o.
33. Arched Library.
34. North Library.
35. D^o D^o.
36. North West Lobby.
37. Cracherode Room.
38. Study.
39. North Central Library.
40. Centre of North Library.
41. South Central Library.
42. North Library.
43. Banksian Room.
44. North Library.
45. North East Lobby.
46. North East Staircase.
47. Transcribers Room.
48. Study.
49. Sorting Room.







RECONSTRUCTORS AND PROJECTORS. 753

Department, where it is much wanted. Upon No. 32, a gallery should be erected from the basement, like the Assyrian Gallery, No. 15, to both of which access might be had by two handsome staircases, descending north and south of No. 19, from which it is taken for granted the Phigaleian Marbles and other objects, now there, would be removed, the central space being applied to better purposes.

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STRUCTORS
AND PRO-
JECTORS.

It does not appear to your Committee that any farther accommodation for Antiquities can be procured on the ground-floor, without interfering with rooms now appropriated to the Library.

On the north side of the upper floor, all that portion marked 21, 32, 31, 30, 29, 33, 28, and 27, on the plan of that floor, now occupied by Geology, Palæontology, and Mineralogy, should be transferred to the Antiquities. It would be desirable to remove the two studies, marked 21, at the western extremity of that floor, and to add so much more space to the gallery for exhibition.

NEW GAL-
LERY ON No.
32, LIKE ONE
NOW ON No.
13.

But before proceeding farther, your Committee wish to make one or two remarks on the advantages which all the galleries on the upper floor offer for the exhibition of Antiquities, even of considerable size and weight, were any of the space on this floor wanted for such objects. With respect to light, as all these galleries may, if requisite, be lighted by skylights (those on the east and west being so already), they will so far meet with the approbation of those who are considered judges of the kind of light peculiarly required for the exhibition of sculptures. The size of the rooms gives ample space for the public exhibition of Antiquities, including statues, not much less than life-size, if necessary; whilst the galleries, though lofty, will not dwarf them. Competent critics have pronounced that it is a mistake to suppose that all sculptures look better in magnificent rooms. The solidity of the Museum building, throughout, leaves no doubt of its upper floor being strong enough to receive ordinary marble statues, not to speak of busts and smaller objects. The floor of the western end of the northern gallery, marked No. 21 and 32 on the plan, offers extra solidity, as it rests on substantial walls at intervals of twelve feet from each other. Your Committee have been assured by their architect that a mass of marble, weighing several tons, might be safely deposited on any part of that floor.

SPACE FOR
ANTIQUI-
TIES ON
NORTH UP-
PER FLOOR.
FITNESS OF
UPPER FLOOR
FOR SUCH
PURPOSES.

With respect to the northernmost central portion (No. 33) of the gallery now under consideration, it could not be better applied than to studies for the officers of the Department of Antiquities. Five such studies might be formed therein, each eighteen feet by sixteen, opening on a corridor six feet wide and eighty-four long, in which might be kept the Departmental Collection of Books for the common daily use of the occupiers of those studies.

STUDIES.

The whole of the eastern side of the upper floor, including rooms 35 to

754 LATER AUGMENTORS AND BENEFACTORS.

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STRUCTORS
AND PRO-
JECTORS.

SPACE FOR
ANTIQUITIES ON THE
EAST AND
SOUTH UP-
PER FLOORS.
WEST SIDE
OF UPPER
FLOOR TO
REMAIN FOR
ANTIQUITIES.

EXHIBITION
OF COINS
AND
MEDALS.

40 (all Zoology), together with the rooms marked 41 (Zoology), 42, 43 (Botany), 1 (Zoology), 2 (the site of the principal staircase, as well as the smaller staircase on the west of it), and finally No. 3 (Ethnography), should be transferred to the Departments of Antiquities; subject to the consideration whether the rooms No. 42 and 43 might not be reserved for the Department of Manuscripts, if at any time required. Space is wanted, not only for Antiquities now unprovided with any accommodation, but also for the display of future additions, and for the better arrangement of what is now unsatisfactorily exhibited, either too far from the eye or in dark corners. A large number of objects, to be seen as they ought to be, must be spread over twice the space which they fill at present; a great many more, now placed where they cannot be seen at all, ought to be removed to more suitable situations. The whole of the west side—that is, rooms 9 to 15—would continue to be applied to the exhibition of Antiquities; it is not, however, to be assumed that the objects now there would necessarily be left where they are, nor yet that, for instance, Egyptian Antiquities should necessarily occupy the same galleries which they occupy at present. From room No. 14 must be removed either the Egyptian Antiquities now in it, or the Temple Collection, which was placed there from absolute necessity, there being no other space whatever where it could be exhibited. The British and Mediæval Collections would probably have to be removed to some other part of the upper floor, now occupied, or which it is now proposed should be occupied, by Antiquities, where the transition would be less abrupt than from Egyptian to Mediæval.

As before suggested, space should be set apart for the exhibition of Coins and Medals, besides that which is required for their safe custody, arrangement, and study. Your Committee will presently state how the latter ought to be provided for. As to the public exhibition of coins, the three rooms, 8, 5, and 4, in which the coins, medals, gems, &c., are now kept, would be admirably adapted for the purpose, after the internal partition walls are removed. It would be desirable to preserve the two rooms, 6 and 7, the one as a study for an assistant, who should be always at hand to give information connected with the coins exhibited close by, and to answer such questions as would not require reference to the general collection; the other as a waiting-room, to which a stranger might be more safely and freely admitted, on the understanding that nothing valuable be kept in it, whilst admission to the assistant's room should be much more sparingly granted. An obvious reason for applying this part of the premises to the above purpose is, that it is provided with special doors, windows, and locks, for the safety of the present contents. And as the objects which it is proposed should be therein exhibited would be of some considerable value, advantage should be taken of the existing arrangements for their security. It is to be noted

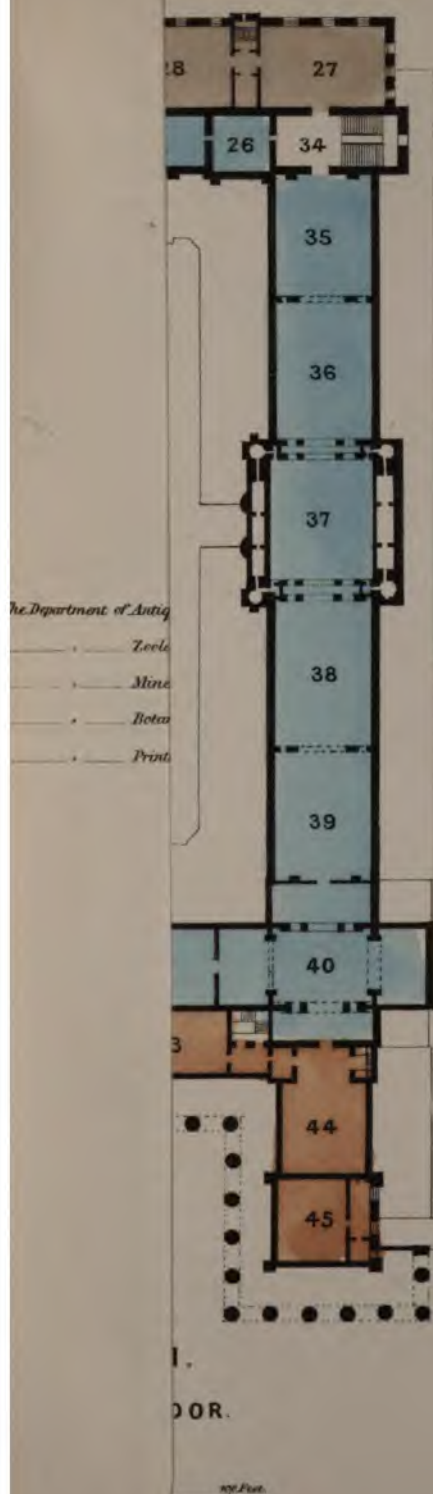


TABLE OF REFERENCE

N° 1.	Central Saloon.
2.	Principal Stairs.
3.	New Gallery for Antiquities.
4.	Antiquities.
5.	Exhibition of Coins.
6.	Study.
7.	D ^e .
8.	Exhibition of Coins.
9.	British & Medieval Room.
10.	Studies.
11.	Bronze Room.
12.	2 nd Vase Room.
13.	1 st D ^e D ^e .
14.	2 nd Egyptian Room.
15.	1 st D ^e D ^e .
16.	N. W. Staircase.
17.	Staircase landing.
18.	Studies.
19.	Passage.
20.	Print Room.
21.	Studies.
22.	Zoological Room. N° 1.
23.	D ^e D ^e . N° 2.
24.	D ^e D ^e . N° 3.
25.	D ^e D ^e . N° 4.
26.	D ^e D ^e . N° 5.
27.	Mineral Gallery. N° 1.
28.	D ^e D ^e . N° 2.
29.	D ^e D ^e . N° 3.
30.	D ^e D ^e . N° 4.
31.	D ^e D ^e . N° 5.
32.	D ^e D ^e . N° 6.
33.	North Central Room.
34.	North East Staircase.
35.	Eastern Zoological Gallery.
36.	D ^e D ^e D ^e .
37.	D ^e D ^e D ^e .
38.	D ^e D ^e D ^e .
39.	D ^e D ^e D ^e .
40.	Mammalia Saloon.
41.	Southern Zoological Gallery.
42.	Botanical Room.
43.	D ^e D ^e .
44.	D ^e D ^e .
45.	D ^e D ^e .

that this exhibition would not interfere with the arrangement of any Collection of Antiquities, with none of which could the coins and medals properly mix, although so nearly allied to them.

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STRUCTORS
AND PRO-
JECTORS.

The corresponding part of the upper floor on the south-east corner, No. 44 and 45, is perfectly well adapted for the exhibition of prints and drawings. As to space for the arrangement and preservation of the prints and drawings, for the tranquil examination and study of them, for the studies of the officers, &c., your Committee will presently lay before you their views.

Your Committee have endeavoured to show how far a portion of the new accommodation to be gained by removing the Natural History and Ethnographical Collections, by alterations within the now existing buildings, and by building on some remaining spots of unoccupied ground, may with propriety and advantage be applied to the Departments of Oriental, Mediæval, and Classical Antiquities, of the Coins and Medals, and of the Prints and Drawings; your Committee will now show what part of that accommodation might be made available for Printed Books and Manuscripts.

EXHIBITION
OF PRINTS
AND DRAW-
INGS.

When the erection of the new Library and Reading-Room was suggested, it was stated that that Library would hold eight hundred thousand volumes; that is, the annual increase for forty years, calculating that increase at twenty thousand volumes. But the annual increase has been, during the last five years, at the rate of upwards of thirty thousand volumes, and during the last four years at the rate of about thirty-five thousand, which number, however, is ultimately reduced by the practice of binding two or more volumes of the same work in one; while, on the other hand, the new building will certainly contain two hundred thousand volumes more than it was originally estimated to hold; so that if the present rate of increase continues, as it ought, the new Library will be full in about twenty-five years from this date. It was necessary to say thus much, as a notion seems prevalent that a great deal more was promised when that building was suggested, and that the number of books, which that new Library can hold, may reach an almost fabulous quantity, and the space be sufficient for an extravagant number of years.

PRINTED
BOOKS.

The rooms on the basement floor of the north side, both marked 15 on the plan of that floor, and now occupied by Geology, cannot be otherwise appropriated than to the Department of Printed Books; the same is to be said of the seven small rooms, marked 17, now used for Geology, as well as of rooms 18 and 19 on the east side, now used for Zoology; all these rooms are immediately under the Department of Printed Books, and naturally belong to it. The rooms marked 13, 14, and 16, from west to east, were formerly appropriated to the Department of Printed Books, to which they should now be restored. When

ROOMS IN
BASEMENT
TRANS-
FERRED TO
PRINTED
BOOKS.

BOOK III,
Chap. VII.
RECON-
STRUCTORS
AND PRO-
JECTORS.

the first importation of Halicarnassian Antiquities took place, they were deposited temporarily in these rooms, as no other space whatever could be found in which to shelter and unpack them. In this space are now arranged the Inscriptions, which have had to be removed from under the colonnade to make room for the Marbles recently arrived from Cyrene. Appropriate space for the Inscriptions will be found without difficulty in the Department of Antiquities, enlarged according to the foregoing suggestions, or, at all events, in the basement, either now existing or to be built under the galleries for Antiquities on the west side of the Museum, where sufficient light may be procured for objects like these, which are of no great interest to sight-seers, and therefore need not be publicly exhibited; enough that they be easily accessible to the small number of antiquarians and scholars who may wish to examine them.

PART OF
NORTH
GALLERY IN
UPPER
FLOOR TO
PRINTED
BOOKS.

The north galleries on the upper floor are divided lengthways, from east to west, into two portions; that now containing Zoological Collections (No. 22 to 26) can be advantageously appropriated to the Department of Printed Books when required. The volumes placed there can be easily lowered down and returned through a hoisting apparatus to be placed at either the south-east or south-west corner of No. 24, immediately above No. 41 on the ground floor—the nearest point of any in the main Library to the Reading-Room. By these various alterations space would be provided for about two hundred and fifty thousand printed volumes, in addition to that which still remains available in that department, from which, however, space for about fifty thousand volumes would have to be deducted, as will be presently shown.

WANT OF
SPACE IN DE-
PARTMENT
OF MANU-
SCRIPTS.

Although there is now space remaining in the Department of Manuscripts for the accommodation of twelve thousand volumes, and although the annual average increase of manuscript volumes may be safely reckoned at less than six hundred and fifty, your Committee have, nevertheless, felt that prospective increased accommodation should now be provided, not only for the Collection of Manuscripts, but still more for artists and readers who have occasion to refer to select manuscripts, as well as for assistants, of whom two, together with one attendant and eight readers, are pent up in a space of thirty feet by twenty-three, crowded with tables, chairs, &c., which scarcely allow room for moving from one place to another or for access to the officers' study on each side. The Head of the Department of Manuscripts has recently represented to the Trustees his want of six assistants; but he has, at the same time, been obliged to state that, if appointed, he should not know where to place them. The Trustees have complied with his request, to the extent of granting two new assistants; and he will experience great difficulty in placing the two who are to be appointed. Add to this, the interruption to which each of these persons is unavoidably liable from

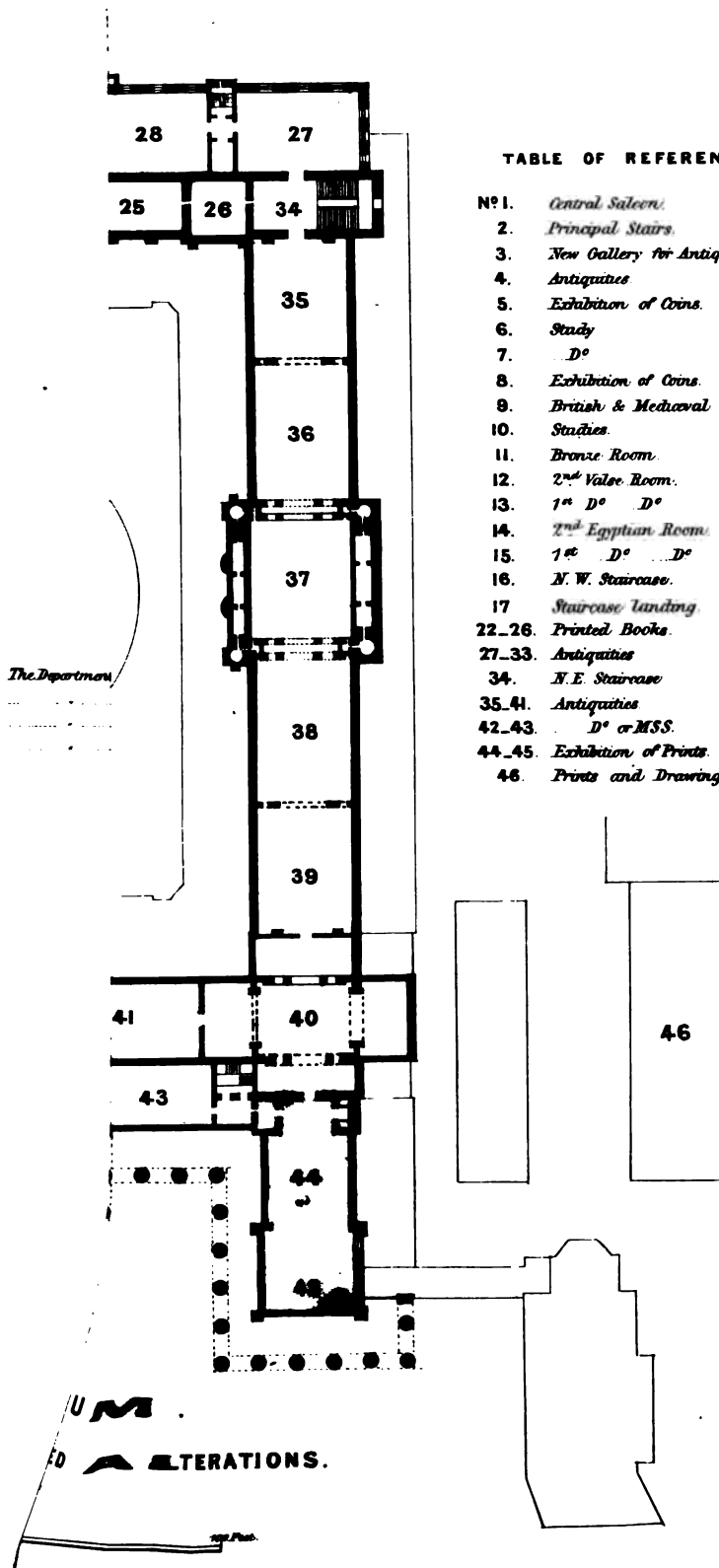


TABLE OF REFERENCE.

- Nº 1. *Central Saloon.*
 2. *Principal Stairs.*
 3. *New Gallery for Antiquities.*
 4. *Antiquities.*
 5. *Exhibition of Coins.*
 6. *Study.*
 7. *D°*
 8. *Exhibition of Coins.*
 9. *British & Mediaeval Room.*
 10. *Studies.*
 11. *Bronze Room.*
 12. *2nd Valase Room.*
 13. *1st D° D°*
 14. *2nd Egyptian Room.*
 15. *1st D° D°*
 16. *N. W. Staircase.*
 17. *Staircase Landing.*
 22-26. *Printed Books.*
 27-33. *Antiquities*
 34. *N. E. Staircase*
 35-41. *Antiquities*
 42-43. *D° or MSS.*
 44-45. *Exhibition of Prints.*
 46. *Prints and Drawings*

each of the others in the performance of his duties and occupations, owing chiefly to the narrow space in which they are confined.

On account of its locality, the Department of Manuscripts cannot derive any direct advantage from the removal of the Natural History Collections; no space which will thus become vacant can be rendered available for the purpose of remedying the inconveniences here stated. As, however, the Department of Printed Books obtains the additional accommodation before mentioned, a portion of the space now occupied by Printed Books, very conveniently situated to supply the wants of the Department of Manuscripts, ought to be transferred to this department.

It is, therefore, proposed that the study, marked No. 57 on the ground-floor plan, be removed to the north end of No. 55, now occupied by Printed Books, and that the site of No. 55 be attached to the Department of Manuscripts. In that gallery, one hundred and fifteen by eighteen, excellent accommodation, with abundance of light, would be found for twenty thousand manuscript volumes—for fifteen students at least (this number is ample if admission be strictly and *bonâ fide* limited to the class of persons for whom it is intended) at separate seats, each having a table space of two feet and a half in depth and four in length,—and for ten assistants or more, admirably placed for superintendence. The area of the eastern recess of No. 56 would then be quite clear, and available for the exhibition of manuscripts, like the western recess in the same room. And when as large an exhibition of manuscripts as the space permits is accessible to the public (and still more accommodation for this exhibition might be found in the present Department of Manuscripts), the same restrictions as have been suggested with respect to coins and to prints ought to be imposed on the handling of select manuscripts.

It now remains to find space wherein to provide proper accommodation for the binder, as well as for the Trustees' offices, for the Collection of Prints and for the Collection of Coins.

On the east side of the roadway parallel to the Department of Manuscripts, there is a piece of ground extending to Montague Street on the east, to the house No. 30, in that same street towards the north, and to the Principal-Librarian's house on the south. On a portion of this ground stands an old building, now partly appropriated to the binder and partly used as a guard-house; the remainder forms the garden attached to the residence of the Principal-Librarian. It appears to your Committee that by substituting a new building for the one existing, and by building on the greater part of the garden, ample accommodation will be found for what is wanted. Your Committee cannot abstain from mentioning that this great sacrifice of personal convenience on the part of the Principal-Librarian was suggested and brought under their notice by that officer himself.

BOOK III,
Chap. VII
RECON-
STRUCTOR
AND PRO-
JECTORS.

SPACE TO
TRANS-
FERRED
FROM
PRINTED
BOOKS TO
MANU-
SCRIPTS.

BUILDING
IN THE GA-
RDEN AT-
TACHED TO
PRINCIPAL
LIBRARIAN'S
HOUSE.

**BOOK III.
CHAP. VII.
RECON-
STRUCTORS
AND PRO-
JECTORS.**

It was some years ago suggested by the Government that the military guard might be dispensed with at the Museum; at times when the services of the army were pressingly required, it was felt that soldiers might be more usefully employed than in being kept for mere show at the Museum. It was, however, thought that on removing the military guard, better provision should be made for the safety of the Museum.

**MILITARY
GUARD DIS-
CONTINUED.**

Then follow various details of minor consequence; to which succeed an enumeration of the additional space gained for the Collections of Printed Books, Manuscripts, Prints and Drawings, Antiquities, Coins and Medals, as well as for offices, store-rooms, bookbinders' shops, &c., by the proposed alterations, as respects each of the several Departments of Printed Books, Manuscripts, and Antiquities; and a summary of the whole, from which it appears that the additional space gained by the Department of Printed Books amounts to an area of seventeen thousand eight hundred and three square feet; that the additional space gained by the Department of Antiquities amounts to sixty-seven thousand six hundred and ninety-two square feet; and, finally, that the additional space gained by the Department of Manuscripts amounts to three thousand four hundred and thirty square feet.

RECAPITULATION.				
	Present Space.	Proposed Addition.	Proposed Deduction.	Proposed Total.
PRINTED BOOKS.				
Basement	33,998	14,667	.	48,665
Ground floor	83,748	.	2,070	81,678
Upper floor	.	5,206	.	5,206
	117,746	19,873	2,070	135,549
MANUSCRIPTS.				
Basement	210	1,360	.	1,570
Ground floor	12,968	2,070	.	15,038
	13,178	3,430	.	16,608
ANTIQUITIES.				
Basement	33,868	16,036	6,767	43,137
Ground floor	39,334	13,775	.	53,109
Upper floor 21,532				
Less Coins and Medals 2,950	18,582	44,648	.	63,230
	91,784	74,459	6,767	159,476
COINS AND MEDALS.				
Upper floor	2,950	—	—	—
New building	.	4,950	—	—
	2,950	4,950	.	7,900
PRINTS AND DRAWINGS.				
Upper floor	2,600	3,204	2,600	—
New building	.	4,950	—	—
	2,600	8,154	2,600	8,154
COMMITTEE ROOM, OFFICES, STORES, &c.				
Basement	1,290	.	1,290	—
Ground floor	3,565	.	3,565	—
Upper floor	1,869	.	1,869	—
New Building (Basement) . .	.	5,400	—	—
" (Ground)	.	4,950	—	—
	6,724	10,350	6,724	10,350
BINDERS.				
Basement	1,360	.	1,360	—
Detached building	3,179	.	3,179	—
New building	.	7,760	—	—
	4,539	7,760	4,539	7,760

BOOK III,
Chap. VII.
RECON-
STRUCTORS
AND PRO-
JECTORS.

BOOK III.
REP. VII.
IMPROVEMENTS
AND PRO-
JECTS.

Your Committee, proceeds the Report, do not think it necessary to give the particulars of the accommodation which the unappropriated portions of the basement floor would afford for the preservation of moulds, as well as for the formatore, for making and preserving casts of statues and other large objects, as well as of gems and seals, and also for providing such decent and suitable conveniences as the health and comfort of the thousands who visit the Museum absolutely require.

FUTURE USE
OF BASE-
MENT.

It is, perhaps, unnecessary to do more than simply to remind the Trustees that the want of space at the Museum has been felt and has been urged on the Government for several years past, and that during the last four or five years the additions to the Collections of Antiquities have been so rapid and so numerous, as to render it impossible to do more than provide for them temporary shelter at a considerable expense and to the great disfigurement of the noble façade which entitles the Museum to claim rank among the most classical buildings of modern times. Should the above proposals of your Committee meet with the approbation of the Trustees and the sanction of the Government, they ought to be carried into effect without delay. The Government would, doubtless, lose no time in providing a proper building for the reception of such collections as are to be removed from the Museum; until this removal has taken place, no re-distribution of the vacated space can be undertaken; but the new structures proposed to be erected on ground now unoccupied ought to be proceeded with at once, that they might be rendered available as speedily as possible.

URGENT OF
BUILDING AT
ONCE.

Your Committee are of opinion that the new building facing Montague Street, the building for the bookbinder, the building intended to be erected on the ground now vacant between the Elgin Room and the Print Room, and the construction of the new principal staircases, should be commenced immediately. The building intended to be erected on the vacant ground on the west of the Trustees' Room (No. 11 on the plan), must, necessarily, be postponed for awhile. The alterations which might and ought to be rapidly completed, are those which will be required on the east side of the King's Library (No. 55 and 57), to transfer the gallery to the Department of MSS. from that of Printed Books.

WHAT TO BE
FIRST PUT IN
HAND.

COMMITTEE
OF TRUSTEES
TO BE AP-
POINTED.

The Lords Commissioners of Her Majesty's Treasury state that 'they will be prepared to enter upon the details of these questions in communication with the Trustees, and even, if it should be desired, to offer suggestions upon them.' Your Committee are of opinion that the proffered assistance should be at once accepted; and that in order to derive all possible advantage from that assistance a small Committee of Trustees should be appointed to carry on the necessary communications with the Treasury, either verbally or otherwise, and to consider with their Lordships all suggestions that might be offered respecting the

points touched upon in this Report, and their details. This Committee would be similar to that which the Trustees requested the Treasury to appoint, by letter of the twentieth of June, 1829, and which was afterwards appointed by the Trustees themselves, with the approbation of their Lordships, to direct and superintend, not only the works then in progress, but those to be afterwards undertaken.

BOOK III,
Chap. VII.
RECON-
STRUCTORS
AND PRO-
JECTORS.

On the tenth of February, 1862—after the communication of this Report to each of the Trustees individually—the recommendations of the Sub-Committee were unanimously approved, at a Special General Meeting of the Trustees, at which twenty-four members of the Board were present. After the adoption of the plans thus accepted, another Sub-Committee of Trustees was appointed to confer with the Treasury in order to their realisation.

*Correspond-
ences Relating
to the British
Museum, No.
97 of Session
1862.*

Before Parliament, this plan of severance and of re-arrangement—after some modifications of detail which are too unimportant for remark—was supported, in 1862, with the whole influence of the Government. But it failed to win any adequate amount either of parliamentary or of public favour. Some men doubted if the estimated saving, as between building at Bloomsbury and building at Kensington, would or could be realized. Others denied that the evils or inconveniences attendant upon severance would be compensated by any adequate gain on other points. The popularity of the Natural History Collections; the facilities of access to Great Russell Street; the weighty—though far from unanimous—expressions of opinion from eminent men of science in favour of continuance and enlargement, rather than of severance and removal; all these and other objections were raised, and were more or less dwelt upon, both in the House of Commons and in scientific circles out of doors, scarcely less entitled to discuss a national question of this kind. The Commons

THE PARLIA-
MENTARY
DEBATE OF
1862.

eventually decided against the project by their vote of the 19th May, 1862.

Substantially,—and in spite of small subsequent additions from time to time to the buildings at Bloomsbury—the question of 1862 is still the question of 1870. As I have said, it has been my object to state that question rather than to discuss it.

Should it seem, after full examination, that good government may be better maintained, and adequate space for growth be efficiently provided, by enlarging the existing Museum, would it be worthy of Britain to allow the additional expenditure of a few scores of thousands of pounds—an expenditure which would be spread over the taxation of many years—to preponderate in the final vote of Parliament over larger and more enduring considerations?

In the session of 1866 Mr. Spencer WALPOLE spoke thus: ‘You must either determine to separate the Collections now in the Museum, or buy more land in Bloomsbury. I have always been for keeping them together. I am, however, perfectly willing to take either course, provided you do not heap those stores one on another—as at present,’ (July, 1866)—‘in such a manner as to render them really not so available as they ought to be to those who wish to make them objects of study.’ Few men are so well entitled to speak, authoritatively, on the question—because few have given such an amount of time and labour to its consideration.

By every available and legitimate expression of opinion the Trustees have acted in the spirit of this remark, made almost four years since, by one of the most eminent of their number. The words are, unfortunately, as apposite in March, 1870, as they were in July, 1866.

THE END.

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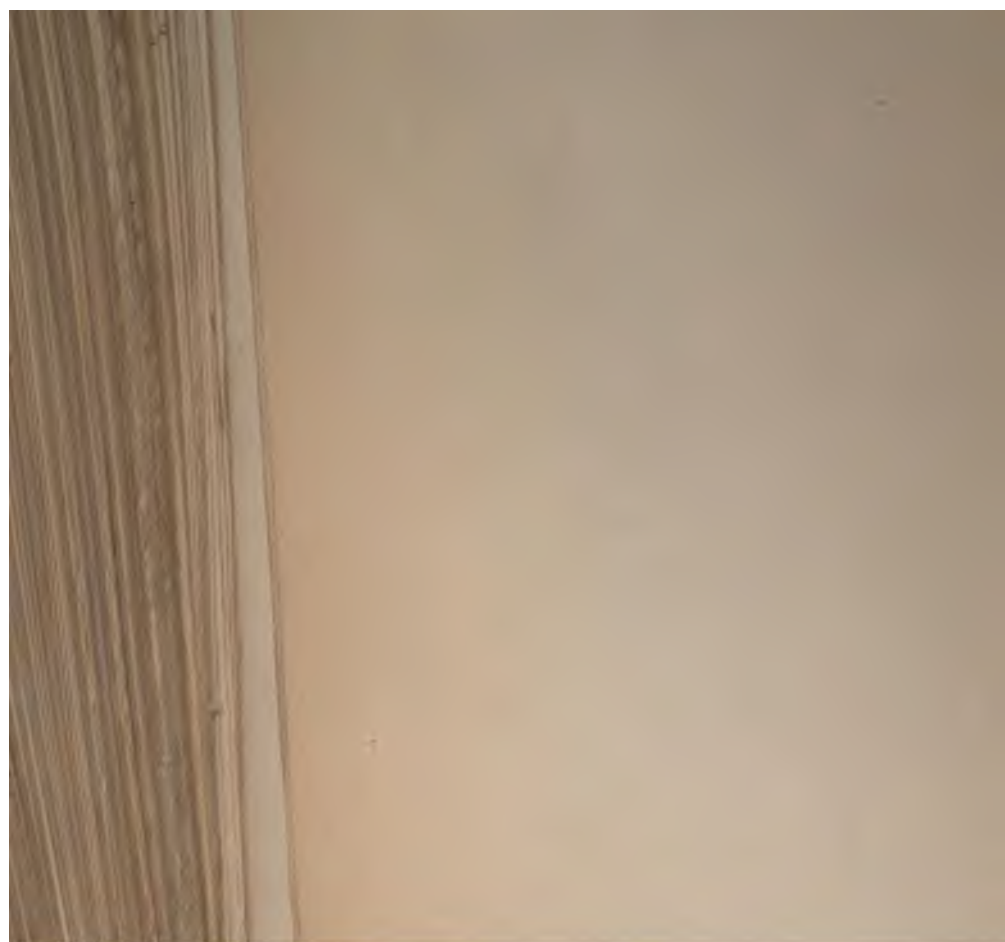
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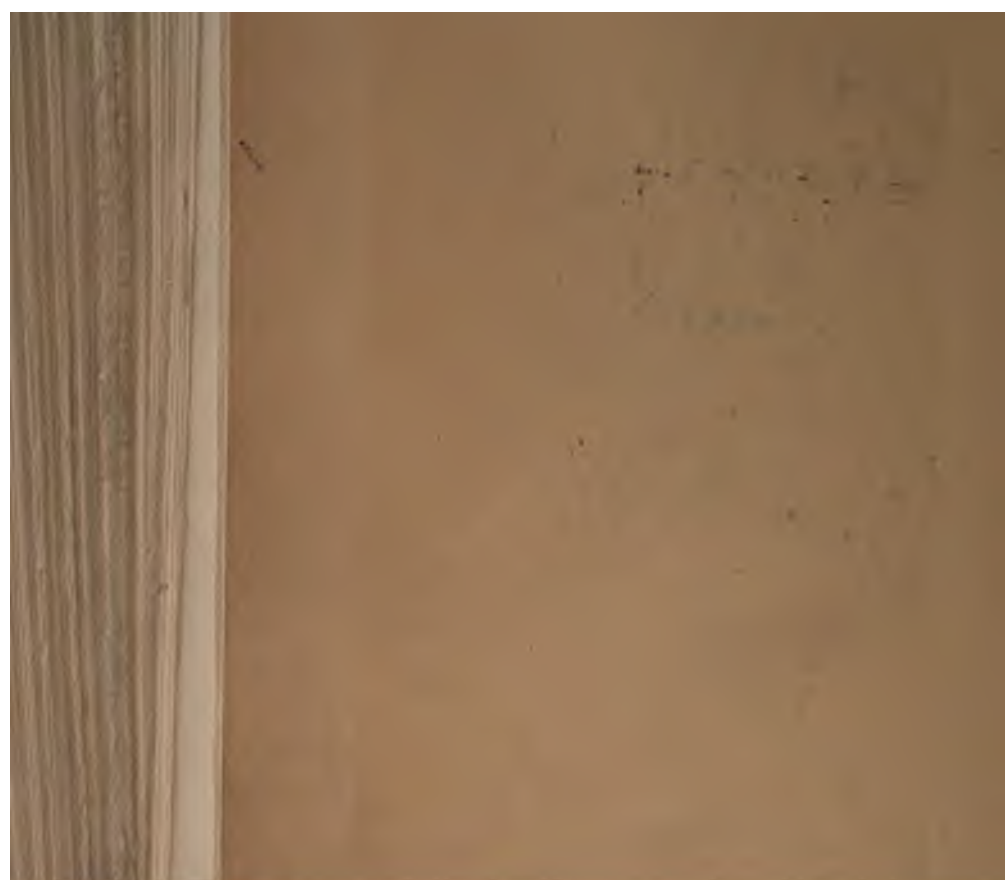
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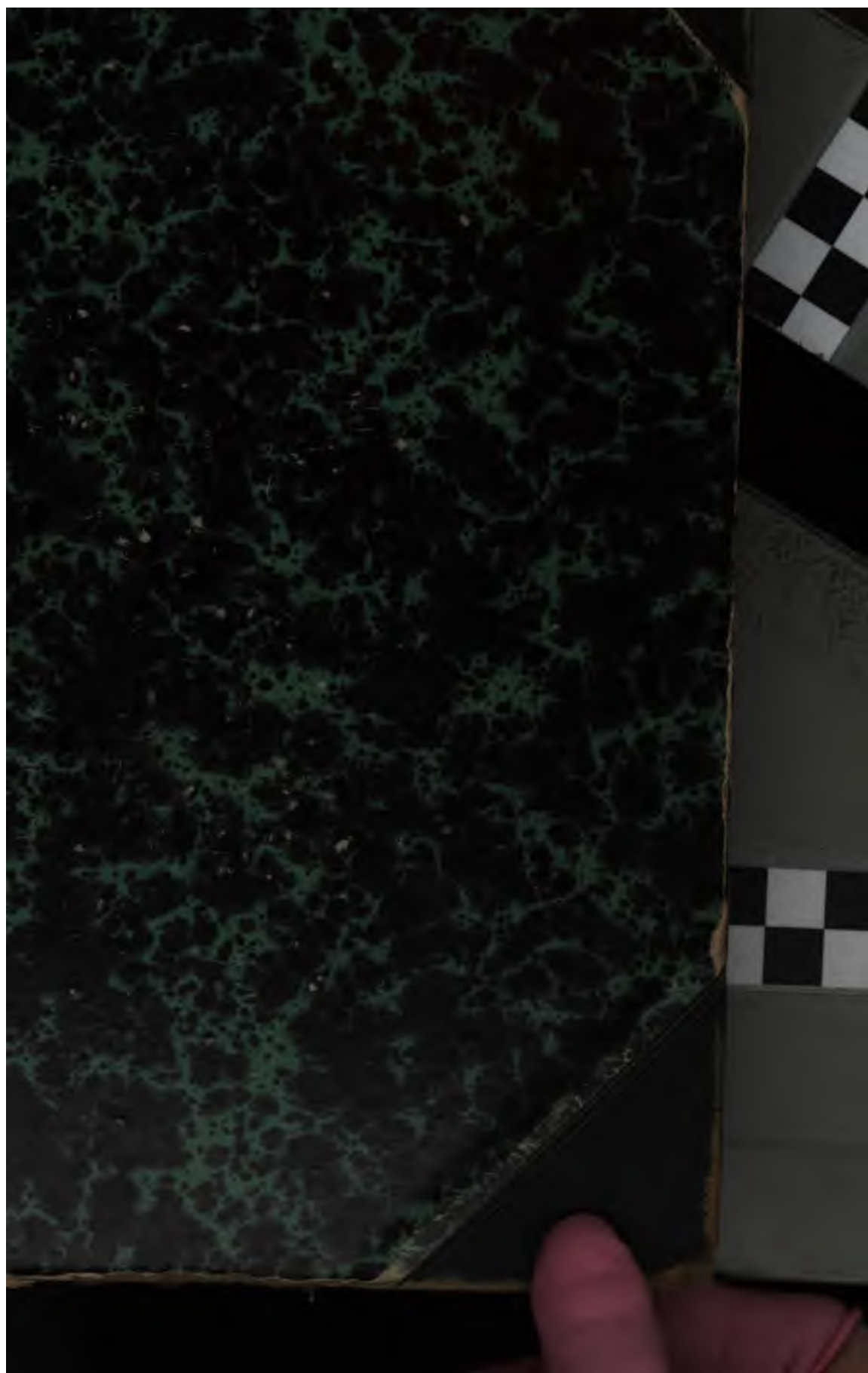
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Chicago, Jan 31, 1878.

My dear Wilson.

I have sent to you
four of the briefs in the
Newberry Will case; two
of I Shamus, one of each of
McCagg's and Boutell's.
There is one more of the
Supreme Court briefs - Dexter's,
which I cannot get till
he gets through a round
time he is now engaged

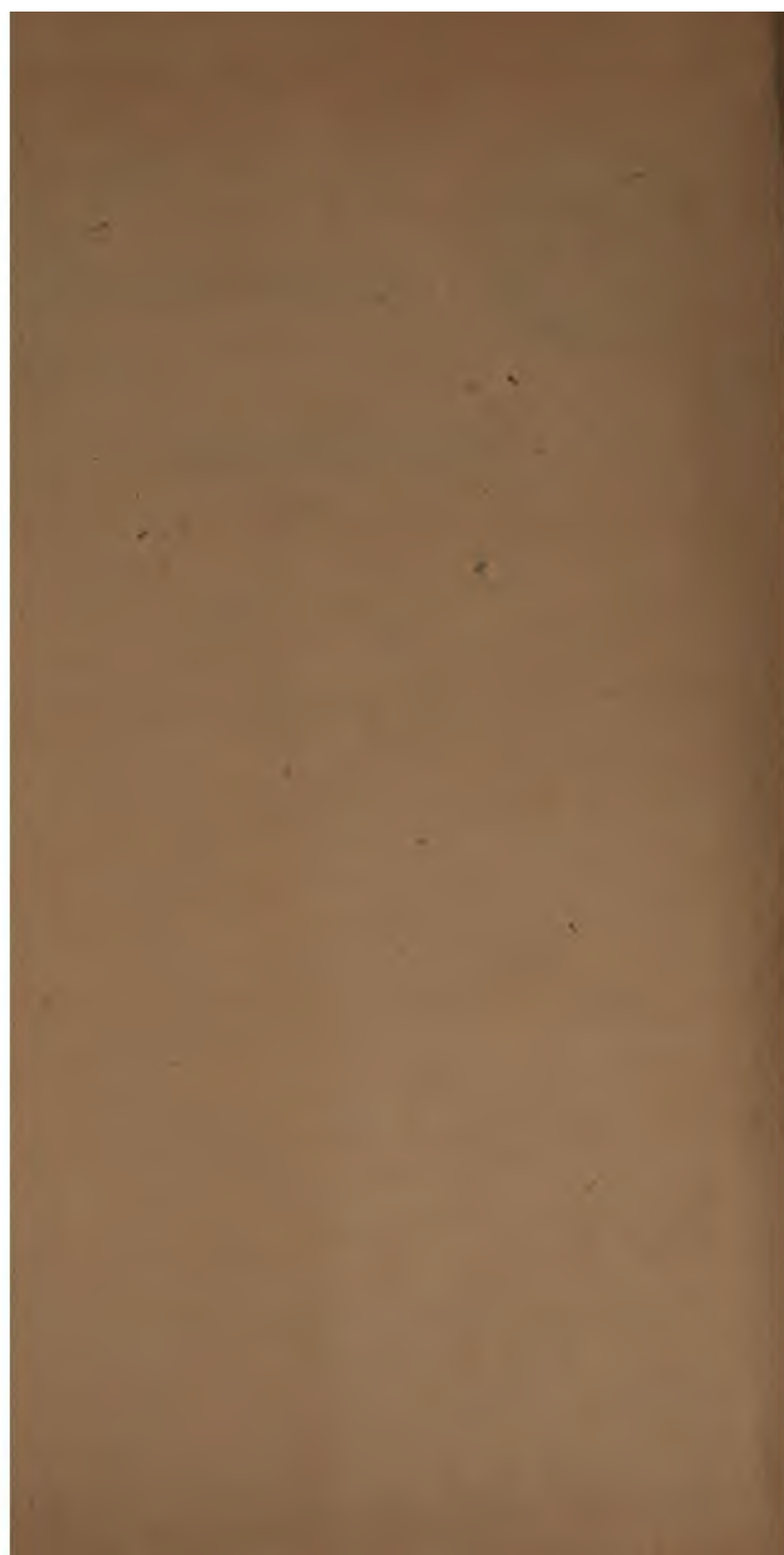




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PAMPHLETS.

Wing's Jones
July 29. 77,
7



He was educated in the seminary of St. Mary's of the Lake, on the North side, and ordained in 1865. He was first appointed to the old Church of St. Louis, on Sherman, near Polk street, which was destroyed in the fire; he was removed thence to the Church of St. James, and finally to St. Patrick's, where, as we have seen, he has been successful, not only in supplying wants long felt, but in ingratulating himself with his people in a manner promising to be long continued and productive of the most salutary results.

The new star, Joseph Cook, has been and has seen and has conquered the orthodox portion of Chicago. Such physical and mental life as Mr. Cook brings with him to the platform, such originality of matter and method as characterize his addresses, are able to win a victory over a fully organized and over the surly crew of a tent. All that they could do was to make the survivors, wander to the mother. Is this text which should of surviving in the mother? Is daughter of his possible for any take per referred to the grammarian's struction or to this well-behaved.

mother. Is the text which should of surviving in the mother? If daughter of test possible for any they take per referred to the the grammatical situation of test that well-as, lies

The mob quelled, let the general government appoint a commission to readjust the relations between these great public carriers and their employees. It is certain that many of the railroad managements have demonstrated their inability to handle the interests committed to them. They have so managed as to bankrupt nearly all the railroads in the country, and to nearly starve their employees, besides the heavy and often ruinous burdens they have put upon their customers. They now need the general government to protect their employees, and as they are to be protected by the same private institutions that are owned by private corporations, let the government take the matter in hand, stop the injustice, and so stop the mobs. This will enable the authorities to make a just discrimination between the men who are risking their lives for the sake of their starving children, and the thieves and outlaws and vermin that seize upon these occasions for opportunities to plunder. The more valuable remedies must arrange for the future. They are simple. Enforce the law every

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CIRCUIT COURT OF COOK COUNTY.

HON. ERASTUS S. WILLIAMS, CHANCELLOR.

HENRY W. NEWBERRY, ET AL.,

v.

ELIPHALET W. BLATCHFORD AND WILLIAM H. BRADLEY,
Trustees under the Will of WALTER L. NEWBERRY, Deceased,
and JULIA BUTLER NEWBERRY.

ARGUMENT OF EDWARD S. ISHAM,

OF COUNSEL FOR TRUSTEES.

ISHAM & LINCOLN, Solicitors, &c.

Beech, Barnard & Co., Legal Printers, 104 Randolph Street, Chicago.

1877.

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1877.

ARGUMENT.

IF THE COURT PLEASE:

The cardinal clauses of the will under which the questions of construction now arise are these :

“ In case of the death of both of my said daughters without lawful issue, it is my will that thereafter the portion of my estate, both principal and interest, which would have belonged to them respectively in case they or either of them had survived, shall revert to and become a part of my estate.” (P. 9.)

“ In case of the death of both of my said daughters without leaving lawful issue, then immediately after the decease of my wife, if she survive my said daughters, my said trustees shall divide my estate into two equal shares, my said trustees being the sole judges of the equality and correctness of such division, and shall at once proceed to distribute one of such shares among the lawful surviving descendants of my own brothers and sisters, such descendants to take *per stirpes*, and not *per capita*.” (P. 12.)

The whole estate is devised to trustees to be held upon the general trusts declared in the will, until its distribution by them to the persons ultimately entitled; and the will contains careful directions which govern during all this period the administration of the estate and its income. Through the instrumentality of these trustees the general scheme of the will involves two primary dispositions of this property. The first is, to the line of descent in the testator's own family -- to his two daughters and their issue; the other is upon the extinction of the testator's family, to descendants of his brothers and sisters and to a public use. Within each of these two primary dispositions there are further detailed directions to govern the trustees in their administration of their trust. For example, in the first disposi-

tion, within the testator's own family, the trustees are to pay all net income to his daughters or their issue; and after their death, and the death of his widow, they are to "divide amongst, distribute and pay" to the issue of his daughters the whole of the estate in their hands. In one case this distribution is further postponed. If there should be sons of his daughters, or of either of them, the distribution is deferred so as to allow one son of each daughter to attain the age of 21 years. The three lives of the daughters and the wife, and the majority of that son are combined as the conditions determining the period of distribution.

In the second disposition,—directed in the event of the failure of issue of his daughters, and so of an utter extinction of his own family,—if Mrs. NEWBERRY dies in the lifetime of the daughters, then upon the death of the daughter who dies last, the trustees are to make the final distribution of the estate. If the last surviving daughter dies before Mrs. NEWBERRY, then the trustees are "*thereafter*" to let all the interest, income and increment of the estate revert to and become a part of its capital until the death of Mrs. NEWBERRY. When she dies, the trustees are "then immediately" to divide the estate into two equal shares, upon the equality and correctness of which division they are to exercise a conclusive judgment. Then they are to distribute one of those shares "*among the lawful surviving descendants of the testator's brothers and sisters,*" and to hold the other half for a public use.

Such, if your Honor please, is briefly the testator's scheme for the disposition of his estate, as shown by the will as he left it, and as the will itself now stands.

Running along side by side with these provisions the testator contemplated an interest that his widow, Mrs. NEWBERRY, was to have in this estate. What this interest would be he knew must depend upon her election, which he could not control. He tendered to her a special provision—an annuity, and a life estate in his residence and its appurtenances—upon condition that she would accept it in lieu of her statutory rights in his estate; and as the will is framed, whichever choice she might make, the directions governing the ultimate application of the estate by the

trustees are the same. Under either choice, her life estate would at the testator's death fall into the estate of the trustees, to be distributed by them under the will in the execution of the general trust. If she took the testamentary estate tendered her, then by the express provision of the will, it falls at her death into the *corpus* of the estate. If she took her dower then it, by the common principles of law, would revert at her death to the *corpus* of the estate in the hands of the trustees; and the will fixed the period of distribution of his estate at such a time when in either event the life estate of his widow would have reverted to the mass of the estate, and have become in the hands of his trustees subordinated to the general trust, and subject to their distribution under the directions of the will.

Now, both daughters have died, leaving no issue. The widow of the testator is still living; she is not dead. In the event that has happened, therefore, the estate stands devised to these trustees for distribution after the death of Mrs. NEWBERRY.

Such are the plain and unambiguous dispositions of this will as they stand at this moment upon the letter of the instrument; and it is as much the legal and moral duty of the court as it is of the trustees, to religiously uphold and carry out the intent of the testator as that intent is indicated by these unambiguous directions, if they are legal, unless something has occurred so gravely altering the situation as to compel the conviction that the real intent of the testator, gathered from the will, would be defeated if his directions were carried into effect. If *this* will can be executed according to its unambiguous terms, then it is the moral and legal duty of every one acting upon it to execute the provisions of the testator as he has left them.

It is desirable to determine accurately the nature of the interest limited over to the beneficiaries at the time of distribution, and counsel have made it matter of extended argument; but there seems to be no difficulty. I never have had any doubt. An estate may, according to the different events that happen, be a remainder — vested or contingent — or an executory devise. Here the devise is to the trustees till the distribution after the death of Mrs. NEWBERRY, and then to a class of survivors. Bearing in

finitions that underlie all our discriminations on
 s, this ultimate limitation over is not of a chattel
 rm after an estate for life; nor is it limited after a
 The only prior estate in fee given by the will is to
 he daughters; but it is to be observed that if that
 ttaches it is absolute. There is no limitation after
 comes into being. The present limitation is only
 tingency that the daughters have no issue, so that
 ever vests in such issue, there is no limitation over.
*hallis.** There is here, therefore, no limitation
 Nor is there the want of a particular estate to
 ontingent remainder. The estate is in the trus-
 the life of Mrs. NEWBERRY, and until distribu-
 is no other estate necessary to support remain-
 e estate in the trustees. There seem to be here
 f the necessary elements of an executory devise.
 ishing properties of an executory devise are just
 ts which are defects fatal to a contingent remain-
 refore, nothing that can be upheld as a remainder
 ed an executory devise. The interest given over at
 on, therefore, is clearly a remainder, and the ques-
 is it vested or contingent?

case made by the bill is this :

ie daughters, Mary and Julia NEWBERRY, being
 thout issue, the *first* primary disposition by the will
 d, and the *second*, whereby gifts are limited over
 ndants of the testator's brothers and sister, has
 o effect;

idow, though still living, having renounced under
 ite the benefit of the devise and bequests to her in
 ner dower and other right, the effect of that re-
 on is that "said will and said codicil are to be read
 nstrued the same as if they contained no condition,
 tion, provision or limitation in reference to her or

* 7 H. L. Cas., 547.

“ her life ;” and consequently to entitle the orators to an immediate distribution of the estate to them.

On the other hand, the trustees are advised :

That it is the death *simpliciter* of the widow, and not her testamentary estate, that is combined as one of the conditions by which the time of distribution is determined;

That her rejection of the testamentary gift offered to her had no effect, therefore, upon these conditions, not being included among them;

That the time of distribution, therefore, is appointed to be after the death of Mrs. NEWBERRY;

That “ the surviving descendants,” among whom the distribution is to be made, are the descendants *surviving* when the time of distribution arrives;

That there is *no gift* by the will to any others;

That, consequently, the interests of the claimants in this bill remain contingent till it is ascertained whether they are to be, not merely descendants, but also “ surviving ” descendants *at that time* ; and, in the meantime, there is no gift by the will to them at all. It is probable that the actual donees are not the claimants, but are other persons who are not parties to this bill, and at present, perhaps, not even *in esse*.

This claim for present distribution, then, if your Honor please, is presented by this bill under two aspects: *First*: Under the theory advanced by the bill, that Mrs. NEWBERRY's election to take under the statute eliminated her and her life from the will, so that her life is no longer combined with the events upon which the distribution of the estate depends. *Second*: Under the provisions and words of this will as it actually stands, including her life, and combining it as one of the events upon which the distributions of the estate depends; but under a theory that the interests of the orators became vested at the death of the

her without issue, and that the testamentary estate of NEWBERRY having been determined by her election, they are entitled to immediate distribution. Now, as rules of construction are important only where the will fails to indicate the intent of the testator, I will ask the court to look first at the indications afforded by this will. I hope my brother McClellan will not suppose we would take issue with him when he speaks with so much emphasis and so long, that the expressed intention of the testator must control. Of course, the intention of the testator must control; and we are driven to special rules of construction only when the will fails in clear indications of intent. But, as I listened to the argument, it seemed to me that he assumed the existence of the intent he spoke of without indicating where or by what phrases it is expressed in the will.

In my view, the intention of this testator is declared in clear and explicit terms that there shall be no distribution of his estate during the lifetime of his daughters or of his wife. There is no ambiguity in this will except as it is introduced by the incompetency of counsel. I venture to say the court will find no difficulty in executing this will just as it stands. The language is sufficiently plain to be executed accurately, and there are no other difficulties in the way than the inveterate legal imagination. The trustees stand upon the words of the will as they are; for that is all, I submit to the court that the trustees can do. If they find a plain direction in the will which they can understand, which is intelligible to a layman, their loyalty to what they thus learn to be the intention of their testator requires them to proceed directly upon that path until they are turned from it by some decree of the court to control them; and I submit that Mr. McClellan presented a very mistaken view of the proper attitude and duties of trustees, in asserting that they ought not to appear before this court as defendants, but should be diligent in their efforts to find out, and help others to find out, some method by which, when under the language of a will there may be claimants to an estate, they may divert that estate from the claimants and vest it in another.

I submit that the proper attitude of trustees under such a will, is to stand squarely upon its terms, and to execute it as they find it, if it is plain; and while, of course, subordinating themselves to the orders and directions of the courts, that it is their duty to see to it that the whole of every question affecting construction is presented to the court, and that the testamentary dispositions of property in cases of as much importance as this, are not disturbed upon partial or *ex parte* presentments of law or fact; especially when persons, who are to be materially affected by a decree according to the prayer of the bill, are not before the court. That is the position which these trustees seek to occupy upon the construction of this will, and upon the hearing of the questions before this court.

What then are the provisions of this will that indicate the intent of the testator in reference to the present matter?

The statute under which Mrs. NEWBERRY filed her renunciation is as follows:

" 10. *Devise — Widow's Election.*] Every devise of land, or any estate therein, " by will, shall bar her dower in lands, or of her share in personal estate, unless " otherwise expressed in the will; but she may elect whether she will take such " devise or bequest, or whether she will *renounce the benefit of such devise or be-* " *quest*, and take her dower in the lands, and her share in the personal estate of " her husband." (1 Gross' Stat., 217.)

It is plain, upon the authorities called to your Honor's attention the other day, that the testamentary provisions for a widow, expressed to be in lieu of dower, are simply, in legal effect, an offer by the husband to purchase and extinguish, for the benefit of his estate, her statutory rights in his property.

In *Isenhardt v. Brown*,* the court say:

" The legacies given to her by this will are partly specific and partly pecuniary; " and they constitute the provision made for her by the testator in lieu of her right " of dower in his estate. It is the price put by the testator himself upon that right, " and which she is at liberty to accept. Her relinquishment of dower forms a valu- " able consideration for the testamentary gifts. In this point of view she becomes " a purchaser of the property left to her by the will. So, on the other hand, the " husband offers a price for his wife's legal right of dower, which he proposes to " extinguish; and if she agrees to the terms she relinquishes it, and is entitled to

* 1 Edw. Ch., 413. Scribner on Dower, 496.

Newberry et al. vs. The Trustees, &c.

s, therefore, a matter of convention or contract between them; and becomes entitled to receive, is not by way of bounty like other trusts, but as purchase money for what she relinquishes, and which must be paid in preference to other legacies, they being merely voluntary. This doctrine is clearly stated in the first volume of Roper on Legacies, and is a doctrine well supported by judicial authority."

statutes making provision by will a bar of dower, is understood to be in enlargement of the testament of the husband. Plainly, if the statute stopped at the point it creates the bar, without going on to give the right of election, the will would extinguish dower. The statute is an enlargement of the testamentary power of the husband. It compels the widow to do affirmative acts if she will prevent the will from subordinating her right to the directions of the testator. As stated in *Newton*,* the widow, under her right to elect, has power to withdraw her statutory part of the property from the operation of the will; but to do so, she must do it on the face of the expressed wishes of her husband; she must reject his offer of purchase, and refuse his request to take the property by the will; and, in this connection, I wish to observe that in every single case wherein a will is involved, there is involved the ultimate distribution of the property, such distribution is postponed till after the death of every member of the testator's family. It is postponed till the majority of his grandsons unless the daughter be dead; till the death of the last daughter unless the wife be dead; till the death of the widow, unless the daughters have died; and surely he did not intend this constant provision to be disturbed by his widow's

* 6 Gray, 308.

election concerning her dower estate, or to be subject to her control.

It must be agreed, that if the testator knew of the right of the widow to retain by election her statutory estate, then he contemplated the contingency that she might hold on to that estate equally with the contingency that she might accept the testamentary benefit tendered her. If that be so, then he made the directions of this will, appointing the period of distribution and the class within which that distribution should be made, in view of *both* contingencies, and with the intent that those directions should govern equally in either. The provisions concerning the time of distribution are perfectly explicit in the will, and must govern, and must have been *intended* to govern in both contingencies, if it appears that the testator knew and contemplated both when he made the provisions. That he did so, admits of no doubt.

The widow's right of election, and the contingency that she might use that right, were created by law. They arose from the law existing when the testator made the will, and when he died, and not from any unforeseen act of other persons. But every man is presumed to know the law. The testator is presumed to have known the law. Until the contrary is affirmatively shown, it must be presumed he knew his widow might claim her statutory estate; and that he made the directions of this will with reference to that contingency. This is, then, his will in the precise event that has occurred.

Now, it will not do to say that a presumption of law — that this presumption that this testator knew the law — is an infirm footing to stand upon. It will be plain to the court that this bill is founded upon this presumption. There is no solid ground for this bill except the solidity of the legal presumption, that this testator knew the law and intended it to operate in the event that has occurred. If the orators have any interest in this estate at all, they must get it under this will, and by the intention expressed or implied of this testator. *Prima facie* the estate of a decedent belongs to the heir or next of kin according to the nature of the property. If the heir is to be displaced a

will must be shown for that. Now, if the claim of this bill is well founded, it is because it represents the expressly declared or legally presumed intention of the testator, as that intention is exhibited in this will. As no such intent is expressed, for by terms distribution can be made only after the death of the widow — if the effect claimed by the bill follows the widow's renunciation, it is because the testator is presumed to have known that to be the law, and to have intended that effect in favor of these orators. Otherwise the situation is one for which there is no provision, and there is no will here to displace the heir at law. The bill presumes, therefore, that the testator knew the right of renunciation, and that in its legal effect it would bring on the distribution of his estate upon the death of his daughters and in the life-time of his wife, and that he intended that result; otherwise there is no will to that effect.

Which then is most naturally to be presumed: that the testator knew the alternative rights of the widow, and framed these clear provisions of his will to govern in either alternative; or that he knew not only of this right of election, but that its legal effect would be what is claimed in the bill, and intending that result left all these careful directions to be held meaningless and forceless by the court in construction? In such case, what becomes of the unvarying rule, that effect shall be given to every word, and that nothing shall be made superfluous?

Turn now to the will itself, and see what its provisions indicate as to the extent to which the testator knew and contemplated the contingency that she might elect to claim her statutory estate. Upon page 4 he makes the provision which he tenders for her benefit. The expressions are:

"It is my will and desire to make provision for my beloved wife, Julia Butler Newberry, *provided she consents to accept* of the same in lieu of and instead of her dower right, and all other right, claim and demand to my estate or any part thereof, in the following manner:"

Did he not know she might not consent? Is this not equivalent to saying he desires to make *no* provision for her unless she will consent? Then he proceeds to declare the provision he offers her. It consists of an annuity and a life-estate in one-quarter of the block that constituted his homestead.

Now this provision alone, if the court please, would under the statute have put the widow to her election, but the testator, not trusting to that alone, puts her himself to an election, and only gives her the interest provided she consents to accept it in lieu of her statutory rights in the estate.

Do men give a gift in the alternative without the consciousness that there is an alternative?

But this is not all. After declaring what provision he desires to make, he turns this proposition to his wife the other end fore and aft. He presents the very alternative supposed to have been overlooked. Having first said what she may have if she will accept the condition, he reverses the case, and presenting the alternative, declares that if she will not consent to the condition, she shall not have the gift. He says:

"None of the *aforegoing* provisions for the *benefit* of my wife shall be operative or have any effect, but the same shall all and singular be inoperative and void unless she shall, within twelve months after my decease, relinquish in due form of law " all claim to my estate.

Did he or not plainly contemplate that she might renounce the provision of this will?

Once more in the codicil—and this codicil was executed less than six months before his death—he uses language giving a peculiar emphasis to the contingency present in his mind that she might not accept his proffer. He says: "And *in the event that she shall* accept."

In view of all these forms of presenting both these alternatives by the testator, one hardly knows where to begin to argue that he had both in mind. In the light of these varied expressions, really, to me, it seems to offend common sense to say, that he did not contemplate one of these alternatives as clearly as the other when he proceeded to frame in this will the careful provisions, which counsel are trying to argue out of it, appointing the conditions and the time of the distribution of the estate. It is impossible not to conclude that the testator contemplated equally the contingency of his wife retaining her statutory estate and that of her accepting his testamentary estate. He had both in mind, and directed the ultimate disposition of his estate with no more reference to one than to the other.

Why, if the widow instead of renouncing had accepted the provisions of this will, so strong and clear are these expressions, that I believe counsel might equally well have brought this bill, and have argued as forcibly as they have been able to do here, that her act was not the one the testator really anticipated. He seems to have thought it the more probable chance that she would decline his offer. And if she had accepted his provision, they might have contended for the same result they now insist upon; for the *terms of the will* are perfectly explicit concerning distribution, and apply to one alternative as clearly as to the other. There would be no more violent wrenching of the terms of the will required, and there would be no more, but the same, words and clauses to be made void.

Now, I ask your Honor to observe that in this will there is a group of clauses giving the widow a testamentary estate, and declaring the conditions on which it is given. They are on pages 4, 6 and 18.

There is another and independent group of clauses providing the conditions for the final distribution of the testator's estate; and in every case the death *simpliciter* of the widow is combined with the other circumstances determining the date of the distribution. They are on pages 8, 11, 12 and 13.

But the clauses relating to her testamentary *estate* are without the least reference to the time of *distribution*; and the clauses that determine the time of distribution, by combining her death, are without the slightest reference to her *estate*.

My brother DEXTER, said yesterday, or the day before, that if this testator had fixed a time for this distribution, then there would have been less ambiguity here, but there was no precision in a time fixed at the death of anybody. Fortunately, or unfortunately, he seems not to take the view of such an appointment taken by Chief Justice MARSHALL in the case of *Finlay v. King's Lessee*,* which he cited. The words in that case were these: "In case of having no children, I then devise and

* 3. Pet., 176.

“bequeath all my real estate, *at the death of my wife*, to William “King.” Chief Justice MARSHALL said: “These words certainly import that the whole estate should vest in possession at the “same time, and *mark with precision when that shall be.*” I think that for all purposes involved in a situation such as this, the appointment of that distribution at the death of Mrs. NEWBERRY marks with precision when it shall take place, and I have the creditable company of Chief Justice MARSHALL in that view. Furthermore, your Honor will recall that my brother DEXTER said that if Mrs. NEWBERRY had not renounced this will, they never would have been here. Will counsel be good enough to tell me how much more precision there would have been in the matter of this time of distribution if Mrs. NEWBERRY had not renounced this will?

MR. DEXTER: If you think it worth while, Mr. ISHAM, to comment upon my position, perhaps it is well enough to have it fairly stated. I did not say what you state. I did not say there was no definite time named, but that no definite time was imported in the words “lawful surviving descendants.” That is what I said.

MR. ISHAM. The words “lawful surviving descendants,” if your Honor please, standing by themselves, contain no definite element of time whatever. I agree that if we had the phrase “lawful surviving descendants,” and no more, we never could fix the time; but right in combination with the words “lawful “surviving descendants,” is the death of Mrs. NEWBERRY, and distribution is appointed after the death of Mrs. NEWBERRY to the lawful surviving descendants. And I say that marks with precision the time of such distribution, and I say that it marks it with just as much precision under the contingency that has happened of her renunciation of this will, as it marked it under the other alternative in which the counsel stated that he would not have been in this court, to wit, if Mrs. NEWBERRY had accepted the testamentary estate, and taken under this will.

I may revert here also to another similar suggestion. My brother, McCAGG, employed much time and eloquence before your Honor, to enforce his idea that it is most irrational to suppose Mr. NEWBERRY could have intended to postpone the distrib-

ution of this fund and defer the establishment of this great library till after the death of Mrs. NEWBERRY, while these collateral relatives, so dear to him, as has been argued—though upon that I shall have something to say presently as bearing upon the general intent shown by the will—go in need of this property.

Why, counsel say that if Mrs. NEWBERRY had taken under the will her petty testamentary estate they would have not been here. There is no controversy but that in that alternative the distribution is thus postponed by the plain intent of the testator; and can anybody give me a reason why the intent to postpone it is more irrational in the alternative in which she takes her statutory estate? They “would not have been here if she had “taken under the will”! But, in that case, she would now be holding out a little petty estate of a quarter of a residence block on the corner of Ohio and Rush streets, and an annuity of \$10,000, to fall in at her death to the trustees upon the general trusts. Now she is holding outstanding in that same way, one-third of all the realty of this estate. In the first case, the intent of the testator is rational and confessedly plain to postpone this distribution till the death of the widow. In the present case, with this greater mass of property outstanding, I submit to your Honor, the direction is equally explicit, and I have yet to be shown where the element of irrationality enters.

Now, it will be impossible to find in this instrument any suggestion that the ultimate dispositions of this estate are limited or conditioned upon the small fragment of property given to Mrs. NEWBERRY by this will. Taking the will as the testator left it, it is her death that is combined with that of her daughters to mark the period of final distribution; and it “marks with “precision when that time shall be.”

I have called your Honor’s attention to the fact, that the group of clauses relating to her *estate* contain no reference or allusion to the *distribution*; and that the group of clauses appointing the time of *distribution* are without the slightest reference or allusion to her *estate*. Her fragment of estate cannot be brought by this court into this combination of events by which the time of distribution is determined without a more violent wrenching of the words of the will than can find any

parallel or analogy in adjudicated cases. The court can find no authority in this will to say that the widow's *estate* furnished the motive for postponement. Whether the desire that the estate might accumulate for a few years for the benefit of all the ultimate uses—an impulse that is very apt to actuate testators with great power; or whether her relations to him in his family, of which neither counsel nor the court have the means or the right to judge; or whether a reluctance to disperse his estate among collateral relatives while any member of his own family was in life, inclined him to postpone this distribution till, by the death of his wife surviving his daughters, all his own family should be extinct, it is idle to inquire. Any and all these would naturally lead him to make her death, simply as marking a point of time, mark the period of distribution. In any event, it is her death—not her estate, but her death only, that has any relation in this will to the time of the ultimate distribution; and whether this which the testator has done, is what any of us would have done, is of no consequence whatever provided it be legal.

When a widow, in the popular phrase, renounces a will, what does she reject or renounce? The testator offers to purchase her statutory rights in his estate for a specified consideration. What does she reject? Plainly his proposition and the consideration tendered her. What is this consideration? Plainly, in the language of the statute, "*the benefit of the devise or bequest,*" the testamentary estate, the property interest given her in lieu of her statutory estate. This is what she rejects, and is *all she can* reject. Provisions not for her benefit, not combined as any part of the consideration of the proposed purchase are not affected by her renunciation. This particular period fixed for distribution is not a benefit provided for her; it is no part of the consideration; it is not alluded to in the clauses that separately and by themselves, and in their own independent part of the will, provide and specify the consideration offered. In the very nature of things her rejection of the consideration, of the personal "benefit" tendered her, cannot affect this arbitrary use of her life by the testator to mark a period of time.

Now, I wish to recall to your Honor a few of the circumstances that frequently arise in wills, and some of them occur here, to see where the range of this question may lead us.

Suppose a provision in lieu of dower in a will, and in another part of the will a bequest to the widow, in trust for the education and support of infant children. She renounces, as in this case. Do the children lose the provision? Does she renounce the trust? Does her refusal to sell her dower right for less than she thinks its value cut off her infant children from the benefit of her tenderness and devotion in this trust, or debar her from the care and supervision of her infant children?

Suppose a gift of £100 per annum to a church during the life of a widow. Will her renunciation take her life out of that bequest "as if there had been no restriction, condition or limitation in reference to her or her life?" If so, what will the church take?

Suppose a gift to an orphan asylum of \$1,000 a year, during the life of the widow, to be expended by her as she deems most needed by the orphans. By an election to take dower will this gift become as if there had been no reference to the widow, or to her discretion? Must the gift fail? Can she defeat it? If not, what do the orphans take, and for how long, and who is to exercise that discretion?

I wish to add another case or two. Suppose a gift of \$1,000 each to such children of the testator *as shall be infants at the death* of the widow. Upon renunciation does it become as if there had been no reference to her or her life? If so, how are you to ascertain which children are to take? It is to those children who are *infants at her death*. If all reference to her and her life is eliminated by her renunciation, how is the court to determine what children are to take? Or does the court imagine it a necessary legal implication that the testator intended that all the children who *were* infants when the widow declined to sell her dower estate at the price he offered, were entitled to \$1,000 each? What connection is there between her refusal to sell her estate for a specified sum, and the gifts by the testator to certain infant children left at her

Suppose a direction to trustees not to change investments without consent of the widow during her life. Does rejection of the bequest to her eliminate her from this direction to the trustees? Does the direction become as if there were no reference to her or her life?

These instances are sufficient to show that provisions of this character have no relation whatever in their nature to the widow's rejection of the devises made to her in lieu of her dower.

I ask the court now to look again at the statute which makes the testamentary provision a bar of dower. Bar is defined "a perpetual destruction of the action of the plaintiff." What does the statute, that gives the widow an election, require her to renounce, to avoid the bar and retain her dower? In the language of the statute, she must "renounce the benefit of such devise or bequest." This is the only subject-matter concerning which she is put to election by the statute. In a direction to trustees to distribute an estate after her death to certain survivors, can she find any benefit of a devise to herself? No provisions of this sort, whatever their number or magnitude, would bar dower under the statute, or put a widow in the slightest degree to an election. Therefore, her renunciation of such provisions as do operate such bar under the statute has no relation to provisions of the character we are discussing; and this widow filed simply the statutory renunciation in this case. If the will had omitted the clauses giving property to Mrs. NEWBERRY, the clauses relating to distribution would not have barred dower, or put her to election. As they could not affect her, so no act of hers could affect them. Therefore her renunciation, which annulled the clauses giving her property, left unaffected the clauses, with which she had no concern, determining distribution to others.

Your Honor will have observed already, that this will itself is equally explicit with the statute as to what the widow must renounce. Attention has been called to the fact that the testator presents, in express terms, both alternatives in this matter of election. He puts first the alternative, "Provided *she consents* to accept in lieu of dower;" and then the other alternative,

conveyed to the younger five the interest that might accrue to them by such a marriage. The widow renounced the will.

The children of the first marriage claimed that by the renunciation, the provision for the home had become impossible, and that the trust had failed and terminated; that their release of the effect of the *marriage* had destroyed the contingency; that the share of each child was vested; and that they were *entitled to immediate distribution*, as in case of the death of the widow.

The children of the second marriage and the testator's sister claimed that the renunciation affected only the widow's own interest under the will; and that they were entitled to the benefit of the trust so far as it concerned them.

The court *held*, that the renunciation affected only the property interest of the widow; that the children and sister were entitled under the trust, and that the *time of distribution remained as it was appointed* in the will. The court said:

"The widow, for herself, had a perfect right to elect to retain her dower. The amount she receives may be, so far as she is concerned, more valuable and of longer duration than the provisions of the will. But neither her choice nor the release of the contingent limitation, in case of her re-marriage, can divest any substantial right given by the will to her children, and vested in them. She may render it difficult or impossible to carry out the provision in the way intended by the testator, but it is the duty of the court to protect these rights, and have them carried out, if not in the precise mode directed by the testator, yet as near that mode as practicable. * * *

"The residue of the principal *must be kept invested until the time of distribution directed by the will*, that is, the termination of the time by the youngest child becoming of age, or by the death or marriage of the widow."

In *The Estate of Mathew Delancy** the testator devised his residue of estate to executors, with directions to sell certain realty, and after certain payments, to invest the proceeds remaining; to pay certain income to his children and his wife during her life; and *on the death of his wife to distribute the estate* among his surviving children. The executors sold the realty; and the wife, renouncing the will, claimed under the statute.

The plaintiff, a daughter, claimed in her bill, that by the renunciation the trusts in the executors to convert the realty by

* 40 Cal., 77.

sale were defeated, and that she was entitled to *immediate distribution*.

The court *held*, that the renunciation ‘*did not extinguish the trusts declared in the will,*’ which were not only to sell, but to hold the proceeds invested *till the death of the wife*; nor did it affect the remaining property. It confirmed the trust powers of the executors and their sales and *refused the distribution*.

In *Plympton v. Plympton* * the residue of estate was given in trust for the following, among other purposes:

To pay *to the wife* so long as she *lived or remained a widow* three-fourths of the net income for the support of herself and her two children.

At the *death or marriage of the widow* to make a different division of the whole income according to specific directions.

To make investment, but subject to this clause: “But while “my wife lives or remains my widow, no change in any investment to be made without her consent.”

The widow renounced the will, and the court *held*, that this act affected only her individual property interest, that she lost thereby her share of the three-fourths of the income, and that *during her life*, the period directed by the will, the whole belonged to the two children; that this three-fourths must nevertheless be paid “*in the mode directed by the provisions of the will,*” which was *to her* for their use; that the particular division directed to be made *at her death* or marriage must still be made *at her death* or marriage as directed by the will; and that her waiver of the will *did not abrogate the necessity of her consent* to a change of investment by the trustees. Renunciation of the widow did not cause this will, nor those in the other cases cited, “to be read and construed as if they contained no conditions, restrictions, provisions, or limitations in reference to her or her life.” The court said :

“The renunciation by the widow of the provisions of the will does in the present case, as it must in most cases, materially affect other legatees *by reducing the amount of assets to be disposed of by the testator*, and to some extent defeats the

* 6 Allen, 178.

“particular disposition of his property designed by the testator. This result is, however, to be avoided as far as practicable, and *the bequests to the other legatees are to have full effect, so far as any estate remains from which they may be paid.*” *Firth v. Denny*, 2 Allen, 468.” * * *

“* The minor children * take the whole of said three-fourths net income as *cestuis que trust*, the income to be paid to them *in the mode indicated by the provisions of the will.*” * * *

“The provision of the sixth article of the fifth clause, ‘but while my wife lives or remains my widow, no change in any investment to be made without her consent,’ is not abrogated by the waiver of the widow *of her personal right* under the will. This provision may be supposed to have been made for the benefit of the minor children, as well as his wife. *The testator having so directed, and the same not being a personal benefit to be defeated by her waiver* of the will as to any provisions for her use and benefit; *this clause must be deemed to be still operative.*”

In the case of *Firth et al. v. Denny et al.*, cited in the foregoing extract, the court said :

“The widow of the testator availed herself of her right under the statute to *waive the provisions made for her* in the will; and she thereupon took all that portion of his real and personal estate to which she would have been entitled if he had died intestate. * But this renunciation annulled *only those provisions in the will in which she had a personal interest.* It could not revoke or invalidate the bequests to other legatees, *nor in any way affect them except by causing a diminution of the remaining part* of the estate out of which they were to be paid.”

Now these considerations and authorities ought to be, and they are, conclusive upon this question. The renunciation by the widow affected only her property interest under the will. She waived “*her personal rights,*” but nothing more. The other provisions of the will are to be carried into effect precisely as the testator has left them, in all their relations to persons, methods and time. Such is the legal effect called for and intended by the statute, and equally the legal effect called for and intended by the will in the provisions which expressly put the widow to election, and define its effect. There is no room for argument but that the testator had in mind the contingency of this renunciation, and appointed the time of distribution with manifest reference to it. In such case there stands the will. It is legal: it has the right to control: its mandates are plain; and what have the trustees or the court to do but to execute them?

This position being established then, it is decisive of this question concerning the *time of distribution* by the trustees. That is to be made under the directions of the will, after the death of Mrs. NEWBERRY. It matters not in this regard whether the interests limited over through the medium of this distribution are vested or not. It is immaterial whether they are vested in the orators defeasibly or indefeasibly, or whether they remain contingent, subject to vest ultimately in the orators or some of them, or in other persons altogether. In any event the time of payment, of distribution, of possession is clearly and imperatively appointed by the will.

I ask indulgence of the court to consider, nevertheless, the argument of counsel upon the question, whether vested interests in the orators have arisen under the limitation over in this will, and upon the effect, if such vested interests have arisen, of the rejection and consequent determination of the testamentary estate offered the widow.

The trustees are advised, that there is no gift in this will except to descendants *surviving at the time of distribution*, and that this element of surviving *at that time* enters into the *description of the persons* to whom the distribution is to be made; that consequently, the interests of the claimants in this bill remain contingent till it is ascertained whether they are to be not merely descendants, but also "surviving" descendants *at that time*; and that, in the meantime, there *is no gift by the will to them at all*.

The gift over being, if this view is correct, to survivors after the death of Mrs. NEWBERRY, and it being impossible until that event occurs to say who will be such survivors, *the entire class* to which the gift is made is uncertain and contingent. A remainder may be contingent by reason of uncertainty in the *event* upon which it depends, or by reason of uncertainty in the *person to whom* it is limited. The definition by BLACKSTONE, is as follows:

"Contingent or *executory* remainders (whereby no present interest passes), are
"where the estate in remainder is limited to take effect, either to a dubious and un-

certain *person*, or upon a dubious and uncertain *event*, so that the particular estate may chance to be determined, and the remainder never take effect."

Contrasting this definition with those of FEARNE and others, Chancellor KENT says:* "It far surpasses them all, if we take into one combined view its perspicuity, simplicity, comprehension, compactness, neatness, accuracy and admirable precision. I have read the chapter frequently, but never without a mixture of delight and despair."

Now, because confusion is sought to be introduced here, I all attention to the point that the contingency that infects this devise, is that of uncertainty as to the *person* to take, not as to the *event* upon which any one is to take. Counsel refer continually to the declaration of FEARNE, that: "The present capacity of taking effect in possession, if the possession were to become vacant," is the distinguishing element; and they say the rators would take if Mrs. NEWBERRY were to die now. But they argue this case as if there were here a gift to HENRY W. JEWBERRY and WALTER C. NEWBERRY, and the other orators *nominatim*, at the death of Mrs. NEWBERRY. But that is not so. The gift is to "surviving descendants," &c., after her death, and these orators may not be surviving. It may be true that if she were to die now they would take; but on the other hand, if she does not die *now*, they *may not take*. They have no *resent assured* capacity to take *whenever* she may die. If she were to die now they would take, not because there is a direct gift *to her* in the will, but because they would *by her death have become* the "surviving" descendants appointed in the will; because they would thereby have come to answer a description, which *now they do not answer*. Whoever takes here at all must take as "*survivors*" of *somebody*; and it is this word "*surviving*" which the counsel must get rid of, and consequently seek to ignore. The language of FEARNE may apply when the contingency involved is an uncertain *event*, as in the first three cases under his classification; but it has no application under his fourth case, nor was it intended to have. The examples he cites, and the whole current of his text show that it

* 4 Com., 23, note d.

has no reference to remainders of his fourth class. If the claimants were not only ascertained to be the persons who would take if Mrs. NEWBERRY were to die *now*, but were also sure to continue so, and to remain the *ascertained donees whenever* that event may happen, so that if they die, other persons taking in their place will take *through them*, under the statutes of descent, and not under the will, the language quoted would apply and be true. I ask the court to observe that it can be applied, and is applied, *only in* cases when the contingency is an *uncertain event*, and when the *person is ascertained*. Such are the cases cited by counsel of *Doe v. Considine*,* where the gift was to all the children, and so to *ascertained* and not to *uncertain* donees; and of *Blanchard v. Blanchard*,† where there was first a direct gift to five children *by name*; and of *Van Dyke v. Vanderpool*,‡ to which counsel have gone for a definition, and where there was a direct devise to named persons.

Such also is the case of *Phipps v. Ackers*,§ where the gift was *to the testator's godson*, an ascertained, not an uncertain person, at 21. It is of this very case that the Lord Chancellor, HATHERLEY, said in *Williams v. Haythorne* ||: "A number of cases have been cited, such as *Phipps v. Ackers*, where the question was *not what was the class*, but what was the age at which the gift was to vest? *That class of cases throws no light on a case where the question is, not at what time the gift is to be vested, but who are the persons constituting the class in whom anything is to be vested?*" The same is true also of the case of *Doe d. Hunt v. Moore*.¶ There the gift was direct "to John Moore" by name. There was no uncertainty as to the *person* to take.

But in the present case, the gift is not upon an uncertain *event* to defined and ascertained persons. It is to dubious and uncertain *persons* of a *class that is contingent* and cannot be ascertained except by the death of Mrs. NEWBERRY. And this must not be overlooked or made obscure.

All the elements of contingency inhering in the definition of BLACKSTONE inhered originally in this remainder over. The

* 6 Wallace, 476.
† 1 Allen, 227.

‡ 14 N. J. Eq., 204.
§ 9 Cl. & Fin., 583.

|| 6 Ch. App., 786.
¶ 14 East., 601.

death of the daughters without issue ascertained an *event* that was dubious and uncertain. But the element of a dubious and uncertain *person* still remains. The class to which the gift is made is still contingent and unascertained, and the remainder *may* yet never take effect for want of any survivors at the time of distribution. The contingency attending this remainder was not alone the death of the daughters without issue; nor is it now the death of Mrs. NEWBERRY. That is sure to happen, but the time of it is uncertain, and so whether these orators will be members of the class to whom the gift is made is uncertain, and must remain uncertain until that event. The gift, therefore, is to a contingent class that cannot be otherwise defined. The contingency now is as to who will compose the class of survivors after the death of Mrs. NEWBERRY.

Where the class is contingent; where the persons who are to compose it are unascertained and can only be ascertained by the happening of a future event, no interests vest until the happening of the event by which the class within which the distribution is to be made is defined beyond contingency. If in the present case, the class to-day presumably entitled under this future distribution *may yet change*, then the *class* is a contingent one, and the remainders are uncertain and contingent.

If, therefore, the persons entitled to share in the distribution under this will are only those descendants of the testator's brothers and sister who shall so survive as to be living at a period of distribution after the death of Mrs. NEWBERRY, then the whole class of distributees is uncertain. It may yet change altogether, as exhibited in *Duffield v. Duffield*,* and continue to change until the period of distribution arrives, as appointed in the will. It is necessary, therefore, to see to what period the survivorship involved in the phrase "surviving descendants," used in the will relates. It will be found perfectly settled that it relates to the *time of distribution* as that is fixed in the will, and to no other time or event whatever.

The persons to whom the limitation over is made, are described as descendants "surviving" *somebody*, or at *some time*.

* 4 Bligh N. R., 511.

The question is then, of *whom*, or at *what time* are they to be survivors?

In *Knight v. Poole*,* there was a bequest to A, and at his death to B, and at "her decease" to be divided among four named persons, or "as many of them as may be living." The question was at what time the persons to take must be living, for some survived one of the tenants for life and died before the other. Sir JOHN ROMILLY said:

"I am clear that no person took except those who *survived the period of division*.
 "There is a gift of property to A for life, and at his death, (with certain exceptions) to B, and at her decease it is to be divided between the surviving brothers and sisters who are married. The case of *Cripps v. Wolcott* clearly applies, and only those who survived both A and B could take. The property is to be 'divided,' and nobody was to take who was *not living at the period of division*.* *
 "I am of opinion that the words in question have relation to the *period of division*, and that the plaintiff takes no interest in the property."

In *Stevenson v. Gullan*,† there were bequests to two for their lives, and from and after their decease to their "surviving children." One of the tenants for life had seven children living at the death of the testatrix; six were living at his own death, but only four were living at the death of the other tenant for life. The question was to what period the word "surviving" must be referred. Sir JOHN ROMILLY said:

"The survivorship must be referred to the death of the last of the tenants for life, *which is the period of distribution*. Where the income of a fund is given to tenants for life, and there is a gift over after their deaths to children or a class of persons surviving, it is a gift to those only who are then surviving."

In *Harves v. Harves*,‡ there was a devise of land to four equally, with benefit of survivorship. It was claimed that survivorship referred to the death of the testator. Lord HARDWICKE said:

"The second construction attempted is, that these words mean a surviving the testator. * * This certainly is not a natural way of explaining the testator's intent; as one seldom provides by will for contingencies that are to happen in his life; but *if no other reasonable construction can be found, the court might resort to this*."

* 32 Beavan, 548.

† 18 B., 590.

‡ 1 Ves. Sr. 12.

Your Honor will observe that this proposition, that survivorship will not be referred to the death of the testator if any other period can be found to which it can be referred, has followed down the whole course of decision in the cases which have finally settled this rule of law conclusively in England.

In *Edwards v. Edwards*,* there was a gift by will of freeholds and leaseholds to A, *durante viduitate*, and then to B absolutely, with a gift over to B's brother and sister, if he died leaving no children. B survived A, the first tenant, but *afterwards* died, leaving no children. The devisees over then claimed the estate. It was held that as he survived the period of actual payment or distribution, and at that time the contingency of his death without children had not occurred, the estate became absolute in him, and the contingency of death without children must be referred to that event. Sir JOHN ROMILLY said:

"If I am right in the view which I take of the principle of these cases, the effect is, as it appears to me, that *the rule of the court is*, that the contingency, or the event which the testator speaks of as a contingency, is *always referable* to the period of payment or distribution, except in the single case where there is a simple gift to A, and if he shall die without leaving issue, to B, in which case, it cannot be referred to any period of distribution."

If a time can be found in the will when the actual payment or delivery of the fund or property is to be made; a period when the donee is to get by distribution or payment the actual *possession* or enjoyment of the gift, *survivorship* is naturally referable to *that period*, and such is the rule of the court. Sometimes this is concurrent with the death of a tenant for life, but not always. Whenever it occurs, it marks the reference of the word "survivors."

In *Carzer v. Burgess*,† the testator gave to each of his four daughters, naming them, the interest of five thousand pounds for life, "and if they have any children, the principal to be *divided* between them after her death, if they should attain the age of twenty-one years; if not, it is to be *divided* among her surviving sisters, share and share alike." One daughter, Amelia, married and died, leaving two children. One of these

* 10 B. 172.

† 10 B. 174.

grandchildren died in infancy; the other, a daughter, married and left a child, but died under twenty-one. And the question was as to the ultimate disposition of the five thousand pounds, which would have been taken by Amelia's daughter if she had reached twenty-one. A question first arose upon the reference of the words, 'attain the age of twenty-one years,' and it was held that they referred to the grandchildren, and not to the daughters of the testator. Then the question was upon the reference of the word "surviving" in the direction for division "among her surviving sisters." It will be observed that if the granddaughter had lived until twenty-one, the principal of the five thousand pounds would have become absolutely hers; but dying under twenty-one, the question was whether the limitations over to the "surviving sisters" of her mother, Amelia, meant sisters surviving at the death of the testator or at that of the granddaughter, which was the period of division, and, of course, the period when the legacy went over to the surviving sisters. My brother McCAGG has dwelt upon this case as an authority to the effect that, in a gift to survivors, the survivorship is to be referred to the period when it becomes certain that the gift is to go over. But the court will observe that in this case, as in all the others, this was not merely the period when it became certain that the gift would go over to survivors, but was the period when it *actually went* over to survivors, and the time of actual payment or distribution of the fund; so that the point established by the case is that which is established by all the others; that where there is a period of distribution appointed, of actual payment and transfer of the fund, that that is the period which draws to itself, whenever it occurs, the reference of the word "surviving." The persons entitled as "surviving" in that case, therefore, were held to be those surviving at the death of the granddaughter, which was the actual period of distribution or payment.

Sir JOHN ROMILLY said, and we ask special attention to this case:

"If the gift over is to take effect upon grandchildren dying under twenty-one, which is the event which has occurred, the next question which arises is, who are

“to take under the words ‘her surviving sisters.’ It is to be divided among her surviving sisters; the obvious meaning of which is her sisters surviving at the time when the legacy is to go over, or *the period of distribution*. The argument that ‘surviving’ is superfluous, and that the gift over is to all the ‘other’ sisters, would have the effect not only of changing the meaning of the testator, but of doing so in violation of the useful and convenient rule, that the period to which survivorship refers, or when the class is to be ascertained, is the period of distribution, and which rule was acted upon in *Cripps v. Wolcott*, *McDonald v. Bryce*, and other cases, and was laid down in *Edwards v. Edwards* as a general rule. The convenience of this rule arises from this: that it explains what, in almost every instance, is the clear and manifest intention of the testator.”

This decision, therefore, is by the same judge who made the decisions in the preceding cases cited here, and in this case, as in all the others, the decision is put expressly on the ground that the survivorship is referred to the time of distribution or enjoyment, whenever that is *appointed to be by the will*, and the gift is to those who are survivors at that time. It is placed expressly on the *rule* laid down in *Cripps v. Wolcott*, and the other cases cited already. Sir JOHN ROMILLY did not imagine he was laying down a new rule, or suggesting any new distinction under the old one.

In *Hearn v. Baker*,* Sir W. PAGE WOOD said :

“In the will in this case, I find nothing which can make any substantial difference in the construction. There is, first, a gift of all the testator’s property to his wife for life, and then the will contains a gift, after her death, to the testator’s five cousins by name, or the ‘survivors of them.’ I think that the word ‘survivors,’ must be taken to include the case of one of the legatees only surviving; and I cannot distinguish this case, in substance, from those concerning which the *rule* was laid down in *Cripps v. Wolcott*, which refers *the words of survivorship to the period of the division of the fund*.”

In *Cambridge v. Rous*,† questions arose upon the construction of the two wills of Maria and Sarah VanMierop. By these wills estates were given to Cornelia Cambridge for life, and in case she died leaving no children, or if all of her children died under the age of twenty-seven, then over to seven cousins, naming them, “equally to be divided share and share alike : the share of each who should happen to die to be equally divided among the survivors, unless” Anna Maria Peters, one of the cousins,

* 2 K. & J., 407.

† 13 Beav., 145.

should die leaving issue. In that case her issue was to inherit her share.

Cornelia Cambridge died in 1858 without having had issue, but at her death, the time appointed for distribution of the estate, all the seven cousins were dead. Anna Maria Peters had been the survivor of them, having died in 1832, leaving children.

Here, therefore, arose another point of time to which it was claimed the word, survivorship, refers. The children of Mrs. Peters claimed the whole fund under the gift over, and that as to these seven cousins, the word *survivor*, meant, not survivorship at the time of the distribution, but only survivors *inter se*, and that as she survived the other six, her children were entitled through her to the whole fund. But it was held that the word survivors, must be referred to the time of the distribution of the fund.

Sir JOHN ROMILLY said :

" With respect to the first argument, that construction is, in my opinion, inconsistent with the authorities on the subject ; it does not point to any period to which the survivorship is to be referred, but simply assumes that the last survivor is to take the whole ; in fact it would simply be this : if they all died before the fund was distributable, the last survivor would take, which really is a gift of property in joint tenancy ; but this is inconsistent with the words of the will, and it would also be at variance with *the whole course of authorities, which point out*, that the only duty of the court is to determine to what period the word *survivor* or *survivorship* relates ; and one cannot get over the difficulty by giving it amongst them as joint tenants. The question really is, to what period the survivorship points, and I think it is now settled that the survivorship must be referable to the time of distribution. *Cripps v. Wolcott* has so decided, and I have always followed it.

" The period here is the death of Mrs. Cambridge, and I think that the survivorship points to that period."

In *Neathway v. Reed*,* Lord Justice KNIGHT BRUCE said :

" The gift in question is in these words: ' I also give and bequeath unto my sister, Catherine Neathway, the interest of my funded property (whatsoever may be remaining after the legacies are paid) for and during her natural life, and *after her decease* such property to be equally divided between her surviving children.' Unless there is something in the context to control the meaning of these words, the children referred to must be taken to be those who were living at the death of Catherine Neathway."

* 3 De Gex, M. & G., 72.

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In *Vorley v. Richardson*,* the estate was to be divided between the wife and children when the *youngest* attained 21, with benefit of survivorship. It was *held*, that survivorship referred to the period of distribution—the time when the youngest should attain 21,—and that the shares of the children did not vest as they respectively attained 21.

Now, if your Honor please, bearing in mind the point which I am seeking to enforce, that the reference of the words *survivors* or *survivorship* is always to the period of distribution, at whatever point of time that may be appointed; that wherever that period of distribution goes it draws the reference of these words after it, I wish to call the attention of your Honor to a few cases in which the time of distribution is appointed at a different period from the more usual one of the death of a tenant for life. These cases also show, that whatever the circumstances may be which postpone and determine the period of distribution, it is that period, nevertheless, that settles the reference of the words of survivorship. Where the time of distribution is concurrent with the failure of any particular estate, the reference of survivorship is to that time. Where the distribution comes at the death of the tenant for life, that fixes the reference of the words of survivorship. Where the distribution comes only after some other event which is to determine the property or fund to be divided, the survivorship relates to that period of distribution. Wherever you fix the period of distribution, the reference of survivorship follows it.

The case of *Brograve v. Windert*† is one of those cases of which a group will illustrate this point.

In that case, the testator gave all his estates to his nephew for life, and to his sons in tail male successively; and in *default of any son*, then to trustees upon trust to *make sale thereof*, and to *distribute the proceeds of such sale* equally among the three children of his niece, or the survivors or survivor of them. It is to be observed, that after the death of the tenant for life there was to be a conversion of the estate into personal property, and then a

* D. M. & G., 126; also *Forrester v. Smith*, 2 Ir. Ch. R., 70.

† 2 Ves. Jr., 634.

distribution of the fund arising by conversion. Lord LOUGHBOROUGH said:

"In this will, the penning of which is very particular, when once you fix his intention, that they shall take it in money, which is clearly the sense of this will, *there is no gift till the distribution*; the object of the distribution is pointed out to be among the persons named, or the survivors or survivor. That *excludes the possibility* of taking in, as *objects of the distribution*, persons who are dead."

In *Hoghton v. Whitgreave*,* the will gave real and personal estate to testator's widow for life, and after her death to trustees to be converted into money, and then to "be paid and equally divided, share and share alike, amongst mine and my wife's nephews and nieces, hereinafter mentioned, and the survivors or survivor of them. [Naming twelve persons.] And I do hereby give and bequeath the same to them and to the survivors or survivor of them, after the decease of my wife, and in manner aforesaid." The court held that the case fell within the same principle as *Brograve v. Winder*, last cited. Sir THOMAS PLUMER said:

"The subject matter is not to be converted into money till after the death of the tenant for life; it is then, that for the first time, anything is given to the trustees. It is given upon trust to be converted into money, and then to be divided. Thus not only was there no bequest before the widow's death, but the subject matter did not till then exist in the shape and form in which it is given.

"It is given to those persons and the survivors or survivor of them; and seems to fall under *the general rule*, that legacies given to a class of persons, vest in *those who are capable of taking at the time of distribution*."

In *Newton v. Ayscough*,† the testator gave to one for life the interest of certain securities "and after her decease the said £300, etc., to be sold and divided among his residuary legatees, or the survivor of them, share and share alike."

Sir WM. GRANT said:

"Here is a direction to trustees at the death of the tenant for life to sell the fund and divide the produce among his residuary legatees, or the survivor of them, share and share alike. That naturally points to the period of sale, as the period to ascertain who are the persons to take."

In *Fennings v. Fennings*‡ the testator directed the executor to sell all his real estate, and after payment of his debts to di-

* 1 J. & W., 146.

† 19 Ves. Jr., 536.

‡ 44 Ill., 491.

vide the remainder of the proceeds of the sale equally among his four children, and in the event that any of them died, the deceased's portion to go to his child or children, equally. It was held that the interests of the several children *did not vest until the real estate had been converted into money as directed by the will*. The testator died on August 7th, 1860. Israel Jennings, Jr., was his son, and he died in September, 1861, leaving his widow with several children. The executor made sale of the land in May, 1863, and the widow of Israel Jennings, Jr., claimed a share in the distribution of the money arising from the sale by the executors. It will be observed that the son was living at the time of the death of the testator, but died before the sale made by the executors. It was held that no interest vested in him under the will, and that no one claiming through him was entitled to anything. When the fund was ready for distribution his children took directly as the devisees under the will.

Chief Justice BREESE said:

"We are satisfied no present interest passed to Israel Jennings, Jr., as the land was not converted into money until after his death, and by the express terms of the will, in case of the death of any one of testator's children, his share was to go to such children as he might leave."

Another case to the same effect is that of *Montague v. Carneal*.* In that case the testator devised to each of three children ten thousand dollars worth of land, to be valued and allotted out of certain tracts. It was held that no interest vested in any devisee "until a valuation and allotment were made agreeably to the direction of the will."

These cases establish a *general rule* that where there is a gift by will to survivors, and a period of distribution of the subject matter of the gift is provided in the will, the word "survivors" relates to that period of distribution. At whatever point of time that distribution is fixed, it draws to itself the reference of the words of survivorship. These cases of *Knight v. Poole*, *Cambridge v. Rous*, *Carver v. Burgess*, *Edwards v. Edwards*, *Brograve v. Winder*, and *Vorley v. Richardson*, represent so

* 1 A. K. Marsh, (Ky.) 250.

many classes of cases in which various points of time have been proposed for the reference of words of survivorship. In *every case*, in obedience to a *general rule*, they have been held to refer to the period of division or payment. Under that form of gift there is *no gift* to any one except such as are surviving and capable of taking at the time of distribution. It excludes all who are dead, so that no one can claim under them through the statutes of descent. It includes all who may be born so as to be alive and capable of taking at that time. The being a *survivor* at such *time* of distribution so enters into the *description* of the persons to whom the gift is made, that no one can take under such a gift who does not *answer that element* of the description.

This rule was settled as to personal property before it was settled as a rule governing devises of realty. There seems to have been a notion that the rule in the courts of law was to refer survivorship to the death of the testator, and that the cases which hold it referable to the period of actual possession or enjoyment of the estate were rather taken out of the rule by special circumstances than founded on the rule itself.

But in the case of *Cripps v. Wolcott*,* 1819, Sir JOHN LEACH held that there was no such rule; that on the contrary, by the rule, "surviving" meant surviving at the time of the distribution and possession of the estate unless a contrary intent was specially found in the will. Even after *Cripps v. Wolcott*, which, as JARMAN says,† completed the "overthrow" of a rule, the foundations of which had been "gradually sapped" before, some cases held otherwise as to devises of land. The principal case to that effect is *Doe d. Long v. Prigg*‡. For a considerable time an issue existed among the courts over these two cases, and the rules they respectively represented. *Doe v. Prigg* was followed in some of the cases; but this controversy was long ago silenced. *Doe v. Prigg* has been overruled; and the rule has been conclusively settled, that in devises of land as well as in bequests of personal estate to survivors, the point of time to which survivorship relates is the time of the actual transfer, distribution, enjoyment of the fund or estate.

* 4 Madd., 11.

† 2 Jar. on Wills, 678.

‡ 8 Barn & Cr., 231.

Now counsel for the claimants have here cited this case of *Doe v. Prigg*, and the other cases of that overruled series, and some American cases—such as *Moore v. Lyons*,* and *Hempstead v. Dickson*,† which are of old date, and decided expressly upon the strength of *Doe v. Prigg*, and, of course, fall with it, and the latter of which is now overruled;‡ and one hardly learns from them that there are cases supporting a different rule. But the case of *Doe v. Prigg* is overruled in England, and the cases following it are overruled in this State, and the rule it represents, if it ever existed, which is denied by the authorities, certainly exists no longer.

In *Spurrell v. Spurrell*,§ the testatrix by will gave “all her property whatsoever” to her mother for life, and after a legacy of two hundred pounds, “then the residue of my property to be equally divided between my surviving brothers and sisters, share and share alike.”

Sir W. PAGE WOOD said:

“As I think the defendant is entitled to succeed in his contest on the meaning of the term ‘surviving,’ it is not necessary that I should enter into the consideration of the several points.

“I think the word ‘surviving’ in this will, as applied to the brothers and sisters of the testatrix must mean ‘surviving’ at the time of the distribution of the fund. The word *was capable of receiving four different constructions*, which were suggested in the argument. * * * I think the view taken in *Cripps v. Wolcott* was extremely just; and, although that has been said to be a bold decision, yet many cases which preceded it had taken the same view. *The only difference seems to be that before the case of Cripps v. Wolcott there had been a general notion that the rule was that the word ‘survive’ pointed to the death of the testator, but that particular cases might be taken out of that general rule by exceptions; and when at last the exceptions grew up to be numerous, the boldness of the decision consisted in holding that there was no such general rule.* I think it better that the court should hold that there is no rule referring the time of survivorship of the legatee to the death of the testator. The natural inference is rather the other way and the court must ascertain the true meaning of the testator after looking at every portion of his will. * * * It seems to me that the period to which the word ‘surviving’ refers, is the period when the fund came to be distributed—when the event has happened which is to guide the executors in making distribution.”

* 25 Wend., 119.

† 20 Ill., 139.

‡ See *Ridgway vs. Underwood*, 67 Ill., 425.

§ 11 Hare, 54.

In *Wordsworth v. Wood*,* the testator, after various bequests, gave certain estates to his wife for life, but in trust at her death, for his *then* surviving children, share and share alike, “independent of the rental of his said estates which he gave and “bequeathed to his surviving female children,” to be paid to them as he directed. Question arose as to the reference of the word “surviving” in the second clause. A point was made that the words “then surviving” in the first clause supplied a reference for the word “surviving” in the second clause. The case was argued, however, before the House of Lords, as it had been argued below before the Vice Chancellor and before the Lord Chancellor, upon the cases of *Cripps v. Wolcott*, and *Doe dem. Long v. Prigg*; and independent of the words in the former clause, and going upon the effect of the general rule governing the construction of the word “surviving,” Lord BROUGHAM, delivering the leading opinion in the House of Lords, said:

“Then I think that upon all principles,—not only the principles uniformly adopted “in such cases, not only the principles upon which the courts have always proceeded in dealing with such questions, but upon the plain principles of common sense,—“the last conclusion which you are apt to come to in considering what a testator “meant when he talked of surviving persons, of surviving children, or of other “surviving parties; *the last construction which you adopt and which you only come “to when there is something that drives you to it in the words*, is that he meant the “survivorship to refer to the period of his own decease, because every gift to a “legatee, whether a child or other person, assumes *ex vi termini*, that the party to “take, is a party surviving the giver of the gift, the testator.”

Is not that, if the court please, just what Lord HARDWICKE said, as long ago as 1747 in *Hawes v. Hawes*, where he said of the reference of words of survivorship to the death of the testator that “if no other reasonable construction can be found the “court might resort to this.” Mr. McCAGG says that the language of Lord BROUGHAM was very bold, but was it bolder for him than for Lord HARDWICKE? Have we not here the same words asserted and the same reason assigned? Lord BROUGHAM further said:

“The case of *Cripps v. Wolcott* was referred to, which has never been overruled, “which has never been materially doubted, though, indeed, there is found one de-

* 1 H. L., 129.

cision of the same learned judge, that is incompatible with it. That contradictory decision was overruled, and it was overruled very mainly upon the ground of its being totally at variance, not only with all the other cases, but with *Cripps v. Wolcott*, and I agree with those who say that when Lord Eldon in the latter end of 1827, sent to the registrar his written judgment deciding the case in which *Cripps v. Wolcott* had been cited in the argument, if he had disapproved of *Cripps v. Wolcott*, if he had held a totally different opinion upon that case, he would have said so, but the case of *Cripps v. Wolcott* was referred to in that case, was argued upon mainly in that case, as supporting the decision, and Lord Eldon does not appear to have taken any unfavourable notice of it in the argument which he used in support of the decision which he then gave and sent to the registrar.

"I therefore take it to be clear, that we are not without the most plain and manifest necessity, to be driven to consider that the testator, when he uses the words 'surviving children,' means children surviving himself. If, indeed, there is no other period pointed out, either in that part of his will or in any other part of it, to which the word 'surviving' can be referred; if it is clear that you can find no other period of time to which that word 'surviving,' or other words indicating survivorship can refer, then, going upon the common principle of giving effect to all the words which a man uses in his instrument, you must, whether you will or no, be driven to that conclusion, but, undoubtedly, it is not a natural one, and it is not one to which we should willingly come. * * * A case was referred to of *Doe v. Prigg*, and the reasons given by the very learned judge who pronounced that decision do not appear very clearly to support it. I believe it is pretty certain that the reasons have not given satisfaction in Westminster Hall. I do not say that the argument on the part of the appellants here cannot stand without the case of *Doe v. Prigg*, nevertheless, both here and in the court below, that case, it must be observed, was very much relied upon for the construction against the demurrer, which was allowed."

It is true that Lord CAMPBELL coming to the same conclusion, thought that the case was governed by the testator's use of the word "then" in the preceding clause; but the case of *Wordsworth v. Wood* is recognized to be an authority upon the point discussed by Lord BROUGHAM in the leading opinion. This is illustrated in *Atchway v. Read*, where the Lord Justice TURNER, after deciding that survivorship referred to the period of distribution, said: "The case of *Wordsworth v. Wood* before the House of Lords, confirms me in this opinion;" and in *Gregsons' Trust Estate*, presently to be cited, used this language: "And what is more important, the House of Lords in *Wordsworth v. Wood*, pointedly disapproved of the case of *Doe v. Prigg*."

In *Buckle v. Fawcett** there was, as in the case at bar, a

* 4 Hare, 541.

mixed estate of real and personal property, and a devise to trustees to distribute among survivors.

Mr. ROUNDELL PALMER argued that the time for determining survivorship must be the period of distribution of the estate, and cited *Cripps v. Wolcott* and *Wordsworth v. Wood*; that the rule as to personal estate was well settled on that principle, and that, if not equally established as to real estate, yet, that in the will the intention was clear, as we submit that it is in the present case, that the real and personal estate should go together; and that the real estate ought, therefore, to follow the personal estate.

Vice Chancellor WIGRAM said:

"I speak under the sanction of much authority when I say that the grounds upon which it was holden, as a rule of construction, that indefinite words of survivorship should be referred to the death of the testator, are not conclusive. With respect to the *application of one rule of construction to personal, and another to real estate*, in deciding upon the effect of this direction for survivorship, I am unable to understand upon what intelligible principle such a distinction can be founded. I do not, of course, intend to intimate any doubt of the authority of cases, (such, for example, as *Forth v. Chapman*), in which, in order to preserve and give effect to a plain and undisputed purpose, the courts have construed the same words in different senses in their application to real or personal estate; but I see no analogy between such cases and the case now before me, in which the *only question is, who were the objects of the testator's bounty*, and in which (the objects being ascertained) *they will take both the real and personal estate*.

"There is not, I believe, any reported case which proceeds on the recognition of a distinction between real and personal estate, *for a purpose like that in judgment*, though it may be true that one construction has been more strictly applied to one species of property than to the other. There is, however, no case in which the distinction is recognized."

Sir JAMES WIGRAM said, therefore, there was no case where, in the same estate, under the same will, for the purposes of the same distribution, one rule had been applied to real estate and another to personal. And as the intent is manifest in this will, that the real and personal estate shall go together, the time of distribution should be governed by the settled rule as to personal estate, even if the rule were not, as it is, equally well settled as to realty.

In *Young v. Robertson** this question arose directly in the House of Lords. The testator directed his estate, real and personal, to be divided equally among his grandnephews and grandnieces. The case was argued upon the authority of *Wordsworth v. Wood*, *Cripps v. Wolcott*, and other cases, and the Lord Chancellor said :

" My Lords, I think upon a matter of this kind, it is desirable, if possible, to consider, in the first place, what are the reasonable, and, I may say, the established rules of construction. I refer to the jurisprudence of both England and Scotland; for although we are here to construe this settlement entirely with reference to Scotch rules, yet it is desirable, no doubt, to ascertain that in the construction of ordinary words in the English language, there is no difference between the view which is taken of them in the one country and in the other. Now, I apprehend it to be a settled rule of construction, and in itself a very reasonable and natural rule, that words of survivorship occurring in a settlement (that is, a will,) should be referred to the period appointed by that settlement for the payment or distribution of the subject matter of the gift. *That undoubtedly is the rule that is now finally established in this country;* and I apprehend that it has been ascertained, from the authorities which have been cited at the bar, that that rule was established in Scotland, in fact *even before it was finally recognized and settled in this country.*" * * * " The result, therefore, is, that in the event of such a gift, the *survivors are to be ascertained* in like manner, *by a reference to the period of payment or of distribution*, namely, the expiration of the life estate. Now, these are, as I have already observed, in my judgment natural and reasonable rules of interpretation." * * * " Now, the natural order of things which is indicated is this—that at the death of the tenant for life, *the duty of the trustees in the matter of division arises*. They are *then to convene and call together the persons who are to be entitled to share*. But the words in question—namely, the clause beginning with the word 'declaring'—are part of the words which are *descriptive of the objects to take*; and the trustees, therefore, are called upon *at the time of distribution, to ascertain what those words mean*, and to give effect to them. But as they are *words of futurity*, the contingency that is contained in those words is, I apprehend, by natural consequence, a contingency of futurity, that must be held to cover the whole period of time that will elapse before the time when the trustees are called upon to determine who are entitled under these words. *They are to ascertain the objects at the death of the tenant for life, and they are then to give a meaning to these particular words.*"

Lord CRANWORTH said :

" I take it that *the rule is well established upon the authorities as well as upon principle*, both in Scotland and in England, that where there is a clause of survivorship, *prima facie* survivorship means the time at which the property to be

* 8 Jur. N. S., 825.

"divided comes into enjoyment—that is to say, if there be no previous life estate, at the death of the testator; if there be a previous life estate, then at the termination of that life estate."

In the case of *Gregson's Estate*,* the application of the rule to devises of real estate, and the authority of the case of *Doe v. Prigg* came directly in issue in the Court of Appeal in Chancery, and there the authority of the rule in *Cripps v. Wolcott*, as controlling a devise of real estate, was settled by the distinctive overruling of *Doe v. Prigg*. A testator gave real estate to his wife for life, and directed that after her death it should be divided, share and share alike, amongst twelve persons mentioned by name, "or the survivors of them." All those persons survived the testator, but some of them died before the widow. It was *held* that the rule laid down in *Cripps v. Wolcott* applied to real as well as personal estate, and that the estate belonged to such of the twelve persons as survived the tenant for life.

The Lord Justice KNIGHT BRUCE said:

"But it is said against the appellants that the rules of English law concerning real estate, and especially concerning contingent remainders in real estate, as those rules existed before and when the will was made, render it incumbent on a court to lean in favor of ascribing to the testator an intention to give to the twelve devisees in remainder respectively, if surviving him, interests vested at his death, and not as to any of them contingent interests, or interests liable to be divested after his death. And in support of this proposition, *Doe v. Prigg*, and many other authorities have been cited. It has not, however, nor could reasonably have been, denied that the intention ascribed to the testator by the appellants was an intention which he had a right by law to entertain and effectuate if he thought fit, or that if he had inserted in the will such a clause as this: 'It is to be observed that by the word survivors I mean such, and only such, of the twelve devisees in remainder herein named as shall outlive both myself and my wife,' the appellants would have been entitled to what they seek. And my opinion is, that the will, in its actual state, as plainly exhibits and declares the testator's meaning and intention in using the word 'survivors,' to have been what the appellants contend, as if such a clause as I have just suggested had been inserted in it. The testator had a right to say, and has. I think, said, that those of the twelve who should die, living his wife, should be excluded in favor of those of the twelve who should survive both her and the testator himself; and if we are contradicting any authority in so holding, I consider that we are not contradicting *Wilson v. Bayley*, or any other authority binding on the court."

* 2 DeG. J. & S., 428.

This decision is, therefore, directly in conflict with *Doe v. Prigg*; and the declaration is explicit that that case, and the others resting upon it, are *not* “*authority binding on the court.*” It is understood and recognized by the English courts that *Doe v. Prigg* is squarely *overruled* by this case, and it is so stated by Vice Chancellor MALINS in *Marriott v. Abell*.^{*} He says:

“ One sees that if there be a gift either of real or personal estate to one for life, or a limited period, and then a gift to a class, and the ‘survivors or survivor’ of that class, the word ‘survivor’ is uniformly referred to the *period of distribution*, That was settled by *Cripps v. Wolcott* with respect to personal estate, *and now by Gregson’s Trust Estate*, *OVERRULING Doe v. Prigg*, as to real estate.”

Now Mr. McCAGG has professed to *quote* from this decision of Lord Justice BRUCE, and the following is the quotation:

“ ‘ It is contended that the law concerning real estate, and especially concerning contingent remainders in England, renders it incumbent on the court to lean in favor of ascribing to the testator an intention to give to the twelve devisees, if surviving him, interests vested at his death.

“ ‘ It cannot, however, be denied, that he had a right by law to effectuate the intention claimed by appellants, and my opinion is that he has done so—and in so deciding, we do not contradict any authority.’ ”

He no doubt *supposed* that he was thus stating substantially the meaning of the court; but I can only say, that I have searched carefully, and with assistance, in the opinion of Lord Justice BRUCE for the foregoing extract, but have been unable to find it. It seems *not to be there* either in form, substance, or spirit. Perhaps a more careful search by the court may disclose it.

The *Lord Justice* TURNER said, in this same case :

“ The terms of the devise have been already stated. The doubt which arises upon it is, to what period did the testator intend the survivorship to be applied, to his own death or to the death of his wife, the tenant for life? I will first consider this point without reference to the authorities. * * * Considering this case, therefore, without reference to the authorities, it seems to me that according to the true construction of this will, the property in question ought to have been held to belong to such only of the devisees in remainder as survived the tenant for life, and that the decision under appeal, if it be supported at all, must be supported, not upon principle, but upon the authorities. It is upon the authorities, indeed, that the Vice-Chancellor has rested his decision.

^{*} 7 L. R. Eq., 482.

"How then does the case stand in this point of view? It is now perfectly well settled that in dispositions of personal estate words of survivorship are to be construed as referring to the period of distribution. This is established by *Cripps v. Wolcott*, and a long train of decisions following upon that case, and it was not even attempted to be denied at the bar that this is the state of the law as to personal estate, but it was said that as to real estate the law is otherwise, and that in cases of devises of real estate words of survivorship are to be referred, not to the period of distribution, but to the period of the testator's death, and several cases were referred to in support of this position. The cases on which reliance was placed were *Stringer v. Phillips*, *Rose v. Hill*, *Wilson v. Bayley*, *Garland v. Thomas*, *Edwards v. Symons*, and *Doe v. Prigg*, and they are a fair sample of the many cases in which the same conclusion has been arrived at by the courts of law, for it cannot be denied that the courts of law have, as to real estate, leaned strongly in favor of the vesting at the death of the testator, whilst the courts of equity have, as to personal estate, leaned as strongly to the vesting at the period of division. The cases upon this subject are indeed irreconcilable, and in saying so I am only repeating what has been frequently said by other judges. It is to be observed, however, as I have already said, that the question is one of intention, and that in the great majority of the cases there has been some context in the will which has been held to affect the decision. In *Rose v. Hill*, and *Wilson v. Bayley*, for instance, there were other dispositions in the will which were taken, in the one case in judgment, and in the other in the reasons of appeal, to support the vesting at the death of the testator. In *Stringer v. Phillips*, and *Doe v. Prigg*, however, there does not appear to have been any such context, and it was upon these cases, and especially upon the latter of them, the respondents mainly relied; but these cases do not stand unaffected by adverse decisions. In *Buckle v. Fawcett*, a case in which both real and personal estate was involved, the Vice-Chancellor, Sir JAMES WIGRAM, notwithstanding the case of *Doe v. Prigg* was cited, held that the survivorship ought to be referred to the period of division, and in *Taylor v. Beverley*, which, however, was a case of personal estate only, my learned brother came to a similar conclusion; and what is more important, the HOUSE OF LORDS, in *Wordsworth v. Wood*, pointedly disapproved of the case of *Doe v. Prigg*. Whether this disapproval was meant to apply generally, or to apply only to survivorship, being referred to the death of the testator in the case of a devise to a class, does not indeed appear, and I do not think, therefore, too much reliance ought to be placed upon the dicta in *Wordsworth v. Wood*; but in the subsequent case of *Young v. Robertson*, the House of Lords appears to me to have held very decidedly that the general rule must be taken to be that survivorship is to be referred to the period of distribution. * * *

"Upon the whole, looking to the intention of this testator, which in my opinion is the governing point of the case, and looking also to the state of the authorities, I can not but think that however this case might have been decided in times long gone by, it ought now to be decided in favor of the appellants, and that the fund in question ought to be divided between such only of the devisees in remainder as survive the tenant for life. Our order therefore will be accordingly."

The rule, therefore, is fully settled in England that in gifts to survivors, the words of survivorship refer to the period of division of the subject matter of the gift; and in accordance with the cases which have been cited, it will be found stated by THEOBALD* that "*the same rule applies to realty as to personality.*" This rule has also been asserted by the Supreme Court of Illinois. In *Ridgeway v. Underwood*† the supreme court declared that the rule which considers a gift to survivors simply as applying to objects living at the death of the testator, *confined to those cases in which there is no other period to which survivorship can be referred.* Where such gift is preceded by a life, or *other prior interest*, it takes effect in favor of those *who survive the period of distribution, and those only.*

Now Mr. McCAGG has stated to your Honor that this case rested not at all upon any *rule of construction* governing the *articular form of the gift* which we are discussing—that is, gift to the survivors of a class, but altogether upon the otherwise expressed intention of the testator apparent in his will; and upon this point we ask your Honor's attention to the language of the court.

Chief Justice LAWRENCE said:

"The question as to the time when *the testator intended* the right of survivorship should apply, is certainly *one of extreme doubt, and very good reasons may be given for adopting either conclusion.* We have found it very difficult to arrive at any satisfactory decision, as it so often is, when a court is called upon to determine the *actual* intention of a testator, manifested *only in language susceptible of a double interpretation.* We have, however, in regard to this will, arrived, finally, at a different conclusion from that reached by the circuit court. We are of opinion that the date of survivorship must be referred to the period of distribution.

"We are not informed by this record whether the will was made during the last illness of the testator. However that may be, it is undoubtedly true that most persons, in drawing a will without the aid of experienced professional advice, assume that the devisees, for whom they are making provision, will survive them, intending, in case of the death of any of such persons prior to their own, to provide for the new state of affairs by a new will or a codicil. Hence the reasonableness of the rule laid down by JAKMAN as the result of the authorities, and expressed by him as follows: "In this state of the recent authorities, one scarcely need hesitate to affirm that the rule which reads a gift to survivors, simply as ap-

* Theobald on Cons. of Wills, 358.

† 67 Ills., 419.

“plying to objects living at the death of the testator, is *confined* to those cases in which *there is no other period* to which such survivorship can be referred; and that where such gift is preceded by a life or *other prior interest*, it takes effect in favor of those *who survive the period of distribution, and those only*.”* This rule, “as one of general construction, applies specifically to the present case.”

I ask the court to observe whether this is not the *same rule* and the *same reason* that were laid down in *Hawes v. Hawes*, and *Wordsworth v. Wood*?

The court then states the circumstances of this case, and proceeds:

“Here then applies, with literal exactness, the rule expressed by JARMAN. The will provides for survivorship. It is indefinite in its terms and the RULE SOLVES THE DOUBT by applying the language of the testator to those who survive the period of distribution.

“In the late case of *Marriott v. Abell*, the Vice Chancellor uses the following language: ‘All these are cases of intention, and the rules adopted by the court have regard to the *probable* intention. One sees that if there be a gift, either of real or personal estate, to one for life, or a limited period, and then a gift to a class, and the survivors or survivor of that class, the word survivor is *uniformly* referred to the *period of distribution*. This was settled by *Cripps v. Wolcott*, with respect to personal estate, and NOW by *Gregson’s Trust Estate*, overruling *Doe v. Prigg*, as to REAL ESTATE.’”

The cases upon which counsel have relied to refer this survivorship to any other period than that of distribution are, therefore, all based upon the case of *Doe v. Prigg*, and *Doe v. Prigg* is overruled, and is overruled in this State. It is this de-vitalized and overruled case, notwithstanding, over which my brother McCAGG has been carrying on his battle as over the body of Patroclus, but as it is slain, he is free to retire with it to his black-beaked ships, and he may make his funeral obsequies there as imposing as he likes.

Not only in Illinois, but in many other States, the same rule has been followed. In *Sinton v. Boyd*,† the court said:

“The ancient holdings on this subject have been much modified by more recent decisions. Also the soundness of the distinction, taken between real and personal estate, has been questioned until it has nearly or quite faded away.”

The court then cited the case of *Young v. Robertson*, *supra*, in the House of Lords, and the statement of the rule in that

* 2 Jarman on Wills, 462.

† 19 Ohio St., 30.

case by the Lord Chancellor that words of survivorship should be referred to the period "for the payment or distribution of the subject matter of the gift," and then proceeded :

" This *undoubtedly is the general rule recognized in this country*, subject of course to such modifications as the paramount rule, giving effect to the intention of the testator may require."

Such *is the rule* generally recognized in this country.*

I think it important, at this point, to say something upon two or three cases, which have been cited by Mr. McCAGG.

I refer first to the case of *Beckwith v. Beckwith*.† It is sufficient to say that in this case, no element of survivorship entered into its decision. The V. Ch. HALL says, at the outset: "The construction of this will is open to considerable doubt; but on the whole, my view of it is, that in *this particular case, the gift over cannot be properly construed as a gift to the survivors.*" There is no reference to the cases upon survivorship, and it is manifest that he had no idea he was dealing with any rule or principle affecting that subject. The case turned upon the effect of the word "*other.*" The other cases referred to are the cases of *Cusack v. Reed*,‡ *Bullock v. Downes*,§ and *In re Dawes' Trust*.|| These are cases of gift to "next of kin," except the case of *Dawes' Trust*, which is a gift "to children." I may be allowed to express a little surprise at the citation of these cases upon the question under discussion. If cases of this class were to be cited, surely counsel need not have confined himself to these. There may readily be found in the books a multitude of cases where, in gifts to "next of kin," or "to children," the class is held to be ascertained by entirely different rules from that governing gifts *to survivors* of a class. The court will observe that in all the many cases that have been cited upon the reference of words of survivorship, in the cases where the gift is to survivors of a class, these cases re-

* *Hanberry v. Doolittle*, 38 Ill., 206.

Wren v. Hynes, Adm'r., 2 Mete. (Ky.), 131.

Holcomb v. Lake, 4 Zab., 686.

Robertson v. Wilson, 38 N. H., 48.

Haskins v. Tate, 25 Penn. St., 251.

Lessee of Westbrook v. Komeyn, 1 Bald., 202.

Stephens v. Evans, Adm'r., 30 Ind., 47.

Olney v. Hull, 21 Pick., 212.

Harbit v. Emerson et al., 16 Mass., 240.

Thomson v. Ludington, 14 Mass., 193.

Tier v. Pennell, 1 Low. Ch., 358.

Leed v. Morton, 60 N. Y., 56.

† 25 Weekly Reporter, 6.

‡ 24 Weekly R., 391.

§ 9 H. L. Cas., 1.

|| 4 Law R. Chy. Div., 211.

lating to next of kin and children never occur, cited either by court or counsel; and *vice versa*, in the cases where the gifts are to "next of kin" or "to children," the cases concerning gifts to survivors of a class never appear. The simple reason is, that it is well understood that there is no relationship between these classes of cases. It is a well settled rule that in gifts to "next of kin," the class is *ascertained* at the death of the testator, and by an analogous rule in gifts to children. It is an equally well settled rule, that where there is a life or other prior estate, and then a gift to survivors of a class, the class of survivors is ascertained at the period of distribution or payment of the subject matter of the gift. These rules are so well settled that the cases relating to one rule are never cited as having any reference whatever to cases under the other. Thus THEOBALD, treating of gifts "to children," and the rules for ascertaining the class, says, page 142 :

"If the gift is immediate, the class of children to take is ascertained at the testator's death, if there are any children then living. * * *

"If the gift is in remainder, all children born at the death of the testator, and coming into *esse* before the death of the tenant for life, take a share to the exclusion of those born afterwards."

For further details of the rule concerning gifts "to children," we refer the court to the chapter on that subject. In the chapter treating of gifts to "next of kin," he says, page 172 :

"The terms, next of kin and heirs, have a direct reference to the death of the ancestor, and therefore *next of kin* and heirs are to be ascertained at the death of the ancestor; and where there is in addition a reference to the statute or to intestacy, this rule is almost without exception. The same rule applies to realty, personalty, and to a mixed fund. *Cusack v. Rood*, 24 W. R., 391."

In the chapter treating of gifts to "survivors," he says, page 358 :

"The general rule is, that when the survivorship is upon death merely, the time of distribution is the limit of defeasibility. '*Survivorship*' is to be referred to 'the *period of division*.' * * * The same rule applies to realty as to personalty."

Certainly these rules have no reference to each other, and the cases under one neither conflict with nor confirm cases under another. Nor is this all. A curious illustration of the *irrelation* of these classes of cases to each other is furnished.

In *Cambridge v. Rous*, speaking of the rule as to *survivorship*, in 1858 Sir JOHN ROMILLY said, page 415:

"The question, really, is to what period the survivorship points, and I think that it is now settled, that the survivorship must be referable to the time of distribution. *Cripps v. Wolcott* has so decided, and I HAVE ALWAYS FOLLOWED IT."

In *Starr v. Newberry** in 1857, Sir JOHN ROMILLY said:

"I HAVE ALWAYS HELD, that the persons who are next of kin of the testator are the next of kin when he died, and not when the fund becomes distributable."

Certainly he did not imagine that in thus holding he was from day to day contradicting himself, or that those two classes of cases had any relation, one to another. I submit that counsel ought not to have supposed that the court could overlook or be unmindful of so familiar a distinction.

In the case of *Dawes' Trusts*, from which Mr. McCAGG has quoted, the WHOLE opinion is as follows:

"This is a gift to children in remainder after the death of the tenant for life. The rule of law is that all gifts are to vest as early as possible, and the rule also is that where there is a gift to A, and after his death to his children, it vests in the children of A, in existence at the testator's death, subject to be partially divested in favor of children coming into existence during the life of A, and the words in the will 'should there be none of them surviving' must be referred to the testator's death. And with regard to the argument that there was no gift to the children until after the death of the tenant for life, I am of opinion that the words in the will, 'from and after my decease I give and bequeath the aforesaid sum of £2,500 to be equally divided between the children of my late daughter Jane Maria Boddy' are in effect the same as if the gift had been to John M. Boddy for life, with remainder to the children of Jane Maria Boddy. This question was considered in *Lainson v. Lainson*,† and I myself decided the point in *Full v. Jacobs*.‡ The children of Jane Maria Boddy who survived the testator or their representatives are the persons entitled to take."

Upon this case two or three points are to be observed. In the first place it is a case of personal property, and even if there remained any question as to realty, the rule is incontestably settled in this State, by *Ridgeway v. Underwood* as to personality; and the testator certainly intended the real and personal property should go together under this will. This rule must be applied to the personality, and the court will not apply one rule to one, and another rule to another sort of property under the same

* 23 Beavan, 438.

† 18 Beavan, 1; 5 D. M. & G. 754.

‡ 3 Ch. D. 703.

will. This is declared by Sir JAMES WIGRAM in *Buckle v. Fawcett*.

In the next place the case does not go on any question of survivorship, but is put expressly upon the rule, stated at length by the V. Chancellor, but omitted from the quotation of counsel, that “*the rule is that where there is a gift to A, and after his death to his children, it vests in the children of A, in existence at the testator’s death, subject to be partially divested,*” etc. But this has nothing to do with survivorship. The word *surviving* in this case is used not with reference to survivorship *inter se*, in a class, but with reference to the extinction of the whole class. There is no gift among survivors of a class, but there is a gift *over* if none of the class are surviving; if the whole class is extinct.

This rule for ascertaining the class in a gift “to the children of A,” etc., is here stated by the same V. Chancellor—MALINS,—who but a little time before, as we have seen in *Marriott v. Abell*, declared of gifts to the survivor of a class that “the word ‘survivor’ is *uniformly* referred to the period of distribution. “That was settled by *Cripps v. Wolcott* with respect to personal estate, and now by *Gregson’s Trust Estate*, overruling “*Doe v. Prigg* as to real estate.” He certainly never imagined that these emphatic statements of these two rules were contradictory of one another. It is surely not necessary to say more upon these cases.

Now, the results of these authorities, which I wish to apply in this case, are :

First. That a devise or bequest under this form of gift is a gift to a contingent class that can not be defined till the happening of the event, upon which the time of distribution depends; and a gift to an uncertain class is contingent. Nothing can vest under such a gift until the class is ascertained beyond contingency.

Second. Surviving *at the time* of distribution is a *part of the description* given by the will of the donee; and there is no gift *to any* one who does not *answer the description* in this element

of *time*. No one can claim under this gift to surviving descendants, who is not surviving *at that time*, any more than one who is not a descendant of the ancestor named.

From this second conclusion it follows by inevitable sequence that the gifts over, under this will, are gifts *at a future time*, namely, *at the time of distribution*; and a *future gift is contingent*.

I am not speaking of cases where there is an *antecedent* gift, and then words postponing payment or possession till 21, or marriage, or a time of distribution. I am not speaking of cases where there is first a defined gift in words of the present time, and then other clauses operating to defer possession. I am speaking of cases where the gift is future; and I say that a gift at a future time is contingent, for when the *time* arrives there *may be no person* who can then predicate of himself that he is the person to whom the gift was directed.

MR. DEXTER : Allow me, Mr. ISHAM, to interrupt you. Do you mean to say that a gift that is to take effect at a future time, is always contingent ?

MR. ISHAM : I mean to say that where the element of futurity enters into the substance of the gift, it is contingent.

MR. DEXTER : Isn't that true of all vested estates where the possession is postponed ?

MR. ISHAM : No, sir.

MR. DEXTER : In tail male ?

MR. ISHAM : In such case there will be found a present gift, both of the first estate and the remainders. There need be no ambiguity about this question. Where all that is to be done in the future is simply to carry into effect a clear antecedent gift, that is one thing; but where the element of futurity enters into the substance of the gift, and the *time* appointed involves something more than the mere carrying into effect of a precedent gift, the gift is contingent, of course, by the very nature of the situation.

Moreover, the only gift in this will is in the direction to the trustees to distribute "among surviving descendants;" and where the *only gift is in the direction to pay or distribute*, that is a future gift and is, of course, contingent. For when the *time*

arrives for payment or distribution there *may be no person* answering the description of the donee given by the will; and no one can answer that description who is not a "surviving descendant" and capable of taking at the time of distribution.

Mr. McCAGG observed, the other day, that all the cases upon this subject to which your Honor's attention has been called, were cases that went off upon express language indicating the intent of the testator, but established no definite rule of construction. I need hardly wait to say that every case upholding a devise or bequest goes upon the intent of the testator; but I ask the court to observe these cases. It will be found that they go upon the intent of the testator, as that *intent is manifested* by the *form of gift* in question. They establish a rule of construction that *this form of gift*, namely, at a future time, as at 21, or at marriage, or at a future time of distribution, or where the *only* gift is in the *direction to pay or divide*, sufficiently indicates by itself alone the intent of the testator, and that such gifts are contingent. At the time appointed, and not before, they vest in such persons as satisfy all the conditions of time and circumstance *which enter into the description* of the donee.

In *Leake v. Robinson** there was a gift to trustees, in case Wm. Rowe Robinson should die without issue, to *pay, apply and transfer* unto and among all and every, his brothers and sisters, share and share alike, *upon their attainment of 25 or marriage*, respectively. If these gifts remained contingent till the attainment of 25 they would be void, as too remote; and this gave rise to the question "whether the attainment of 25 was in fact "the period assigned for the *vesting* of the several shares, or "was to be taken *only* as the time fixed for the payment of "the *several* shares which had already vested at some antecedent "period."

Sir WM. GRANT said :

"There is no direct gift to any of these classes of persons. It is only *through the* "medium of directions given to the trustees that we can ascertain the benefits intended for them. * * The attainment of 25 is necessary to entitle any child to

* 2 Mer. 363.

“claim a transfer. It is not the enjoyment that is postponed; *for there is no antecedent gift*, as there was in the case of *May v. Wood*, *of which the enjoyment could be postponed*. The direction to pay is the gift, and that gift is only to attach to children that shall attain 25. * * If there were an antecedent gift, a direction to pay upon the attainment of 25 certainly would not postpone the vesting. But if I give to persons of any description, *when* they attain 25, or upon their attainment of 25, or from and after their attaining 25, is it not precisely the same thing as if I gave to *such* of these persons as should attain twenty-five? None but a person *who can predicate of himself that he has attained 25 can claim anything* under such a gift.”

If your Honor please, that is the situation under this will. They have nowhere undertaken to show any clause or intimation that could be construed into a gift to these parties, except the direction in these last few words, that after all the testator's family were extinct, and there was no living being of his blood or his immediate family on earth, then the public might have one-half of this estate, and his collateral relations then surviving, the rest. The only gift is in this phrase: Then my trustees shall divide my estate into two equal parts, and shall proceed to distribute one of such shares *among the lawful surviving descendants* of my brothers and sister. That is all there is. There is no direct gift to any of this class of persons, and it is only through this direction to the trustees that we can ascertain any gift intended for any of them.

This case of *Leake v. Robinson* is a very celebrated case. It has never been controverted. It stood as law then, and stands as law to-day.

MR. DEXTER: What was the devise in that case?

MR. ISHAM: A gift of real and personal property; and, just as here, there is no gift, except in the direction to distribute.

In *Locke v. Lamb*,* was a “bequest of a sum of stock to be divided, after the death of an annuitant, between all the children of A. B., as they should attain his or her age of twenty-one years.”

V. Chancellor MALINS said:

“In this bequest there is no gift of the interest or direction as to its application for the benefit of the legatees, but it is directed to be *accumulated, and form part*

* L. R., 4 Eq., 372.

" *of the capital*. The direction to divide is the *only gift*, and that gift is only to attach
 " to the children who shall attain twenty-one. * * *

" Now the case of *Hanson v. Graham*, was decided by Sir W. GRANT in 1801,
 " at the commencement of his judicial career, and *Leake v. Robinson*, in 1817, at
 " its conclusion; and, therefore, during the whole of his judicial life he adhered to
 " the same rule, that a gift of a legacy, 'as,' or 'when,' or 'if,' the party attains
 " twenty-one, renders the gift contingent. In this case there is no gift whatever of
 " interest, and therefore, as this case falls so distinctly within the rule laid down by
 " Sir WILLIAM GRANT in *Leake v. Robinson*, and his decision in *Hanson v. Graham*,
 " where the gift would have been held contingent if it had not been for the gift of
 " the interest for the benefit of the children during the minority, I should have had no
 " hesitation in deciding against the representatives of children who had died under
 " the age of twenty-one, at the conclusion of the arguments, if I had not been
 " pressed by numerous authorities which appeared to have impugned the decision of
 " Sir WILLIAM GRANT in *Leake v. Robinson*. I have now carefully considered those
 " authorities, and I am satisfied that the rule laid down in that celebrated case is stil
 " the *rule of the court*. Mr. Wickens, who argued the case for Mrs. Lamb, against
 " the claim of the children who died previously, correctly stated that no judge had
 " ever proceeded so far as to overrule *Leake v. Robinson*, or to decide in contraven-
 " tion of the rule laid down by Sir William GRANT, and it will be found that all the
 " authorities relied upon depend on their own particular circumstances, which dis-
 " tinguished the gifts decided upon in those cases, from that in *Leake v. Robinson*."

In *Merry v. Hill*,* the same V. Chancellor said :

" The testator gives a legacy of £10,000 to Mrs. Merry, the mother of these
 " children, for life, and after her death it is to be divided among all and every such
 " child or children of the said Mary Ann Merry as shall be living at her decease.
 " Therefore it is to go to all the children living at her decease; but that is not to be
 " the sole qualification of their taking, as it is to be children living at her decease
 " who shall attain the age of twenty-one years. Therefore they *must survive the*
 " *mother* and *also* attain the age of twenty-one years; and in this clause the testator
 " has used the best expression that could be found for the purpose, namely, children
 " who attain the age of twenty-one years, because that is *described as the qualifica-*
 " *tion* by which they are to take, and no child can take who does not attain that
 " qualification. * * *

" I had occasion in *Locke v. Lambe*, Law Rep., 4 Eq. 372, very carefully to con-
 " sider the authorities upon the subject, and as the conclusion I arrived at stands un-
 " reversed, I must assume it to be sound law, as I verily believe it to be. The re-
 " sult of my conclusion in that case was that the rule laid down in *Leake v. Robin-*
 " *son*, 2 Mer., 363, is the rule of the court, that whenever you can fairly come to the
 " conclusion upon the construction of the whole language of the will, that *the gift*
 " *is to be found in the direction to pay or divide*, then the attainment of the age at
 " which that payment or division is to take place is a *condition precedent* to the
 " vesting."

* L. R., 3 Eq., 619.

Justice MARSHALL, expressly upon the ground that the devise was *in words of present gift*, and that those words were coupled with a condition that from its nature could not be immediately performed. The devisee was to marry a person not yet born. The estate was held to vest at the time appointed in the gift, but upon a condition subsequently to be performed.

In *Knight v. Knight*,* the form of the gift was :

" I likewise give and devise to each of the daughters of Thomas Knight, lawfully begotten, as soon as they attain the age of twenty-one years, the sum of two thousand pounds, with interest at the rate of five per cent. per annum, and to each of the sons of the said Thomas Knight, lawfully begotten, as soon as he attains the age of twenty-one years, the sum of three thousand pounds, with interest at the rate of five per cent. per annum."

Vice Chancellor LEACH said :

" The expressed intention must prevail, and there is no gift, either of principal or interest, until the daughters attain twenty-one."

Your Honor will perceive that there was, in that case, no expression of intent whatever, to control, except the *form of the gift* ; and yet Vice Chancellor LEACH says : " The expressed intention must prevail." That *form of gift* conveys the intention, and there is no gift until the time appointed.

And I wish to call attention to the point, that the principle governing in these cases is this: that the attainment of *the time appointed enters into the description and designation of the donee*; and no one can claim as a donee, unless he can predicate of himself this element of description.

In *Morgan v. Morgan*,† there was direction to trustees as follows :

" To pay over to my sister Sarah Gyles' two daughters, Frances Sarah Gyles and Georgiana Anna Gyles, five thousand pounds each, upon their marriage, with all the accumulations of interest thereon from the time of my death."

The daughter, Georgiana, died unmarried. " The first question was whether the legacies of £5,000 each, to Frances Sarah Gyles and Georgiana Anna Gyles, on their marriage, vested at the death of the testatrix."

* 2 Sim. & Stu., 490.

† 4 De Gex & Sm., 164.

Sir LAUNCELOT SHADWELL said :

" This testatrix had a right to say that neither of these legatees should take either principal or interest, unless married. I think that she has said so, and that the will is as plain and distinct in this respect, as if she had used these words, ' neither of them shall have any thing unless she shall marry.' "

There was, in this case, no gift but in the direction to trustees pay at a particular time, to wit, upon marriage, and there as no language declaring an intent apart from the mere *term of the gift*.

In *Bull v. Pritchard*,* the devise was of freehold estates to trustees to pay the rents and profits to testator's daughter, for life, and from and after her decease to " convey and assure my freehold estates unto and equally between and among all and every the child and children of my said daughter, Mary Bull, who shall live to attain the age of twenty-three years."

Lord GIFFORD said :

" It is clear that those children alone of the daughter were to take, who attained the age of twenty-three years. The attainment of that age was *necessary to vest an interest* in any of them, and all who attained that age were to take. Consequently the vesting of the interests might not take place till more than twenty-one years after a life in being. * * * The attainment of the age of twenty-three years, was made a *condition precedent to the vesting* of any interest in the children."

In *Festing v. Allen*,† the testator devised freehold estates to trustees for the use of his granddaughter, Martha, for life, and from and after her decease to the use of all and every " child or children " who shall attain the age of twenty-one years; " and for want of any such issue," the estate was to be divided over one-half to certain persons and the other half to theirs. The granddaughter, Martha, died, leaving three children, but they were not twenty-one years old. The estate was claimed by the heir-at-law, by the devisees over, and also for the infant children. In behalf of these children it was attempted to make the question in the case, whether the estate remained in contingency until they attained twenty-one, or whether it vested in them on their birth, liable to be divested if they did not attain the prescribed age. It was *held* that the gift was to

* 1 Russ., 113.

1 12 M. & W., 274.

children *twenty-one years of age at the death* of the mother; and as none of these children *answered that description*, the gift to them and the limitations over equally failed, and that the estate belonged to the heir-at-law.

The case arose in chancery before Vice Chancellor WIGRAM, who ordered it to be stated for the opinion of the Barons of the Exchequer. In their opinion ROLFE, B., said :

" Martha Hannah Johnson survived the testator's widow, and after his death, " namely, in the year 1825, married Maurice Green Festing. She died in 1833, leaving three infant children ; and the main question is whether those children took on " her death any interest in the devised estates.

" We think that they did not. It was contended on their behalf that they took " vested estates in fee immediately on the death of their mother, subject only to be " divested in the event of their dying under twenty-one ; and the case, it was said, " must be treated as coming within the principle of the decision of the House of Lords " in *Phipps v. Ackers*, and the cases there referred to. To this, however, we cannot " accede. In all those cases there was an absolute gift to some *ascertained person* or " persons, and the court held, that words accompanying the gift, though apparently importing a contingency or contingencies, did in reality only indicate certain circumstances, on the happening or not happening of which the estate previously devised " should be divested and pass from the first devisee into some other channel. The " clear distinction in the present case is that here there is *no gift to any one who does " not answer the whole of the requisite description*. The gift is not to the children " of Mrs. Festing, but to the children who shall attain the age of twenty-one, and *no " one who has not attained his age of twenty-one years is an object of the testator's " bounty any more than a person who is not a child of Mrs. Festing.*"

The decree was entered by Vice Chancellor WIGRAM in accordance with this opinion.

Holmes v. Prescott,* is not only a concurring case with this, but there Sir W. PAGE WOOD reviews this whole subject, and especially the remarks on *Festing v. Allen* of V. Ch. STUART in *Browne v. Browne*,† which counsel has recalled to the attention of the court, and discusses and concurs in this case of *Festing v. Allen*; and he affirms it as a leading case controlling this situation. And THEOBALD,‡ stating the rule of *Festing v. Allen* says *Browne v. Browne* will probably not be followed; and the court will see that it has not been followed.

* 10 Jur., N. S., 507.

† 3 Sm. & G., 568.

‡ Cons. of Wills, 268.

In *Rhodes v. Whitehead*,* Vice Chancellor KINDERSLEY said:

"In this case we have in substance a devise to one for life, and after his death to such of his children as shall attain twenty-one. Now, according to the plain import of that devise, the only persons to whom any gift is made by way of remainder, are such children as shall attain twenty-one; and there is *no gift whatever, either expressed or implied, in favor of any child who does not attain twenty-one.* The effect is that until some child has attained twenty-one, the limitation over is contingent. * * *

"I concur in the view taken by the Vice Chancellor, WOOD, in *Holmes v. Prescott*, and by the Vice Chancellor, WIGRAM, in *Bull v. Pritchard*, and which was also taken in the case of *Festing v. Allen*. It appears to me that that is the right principle; and I must decide this case in accordance with those decisions."

In *Shum v. Hobbs*,† Vice Chancellor KINDERSLEY said:

"This case comes on on the construction of a will, and the question is, whether a certain share of the testatrix's residuary estate was a vested or contingent interest. I have first to consider the precise language of the gift; and then, whether an intention to create a vested interest is to be collected from other parts of the will. Now, on the question whether a legacy or a residuary gift vests or not, there is no contest about the general rule; if the legacy is given in the first instance, and then there is a separate direction to pay at twenty-one or marriage, that is a vested interest. If there is not an independent gift separate from the direction to pay, but a mere direction to pay at twenty-one or marriage, that is not a vested interest. * *

"The question then is, is this a substantive gift; and in addition to it, a direction to pay at twenty-one; or is the direction to pay at twenty-one the only gift."

He held the gift not vested by force of the general rule, and upon the mere form of the gift; and also held that no intendment opposed to the rule appeared elsewhere in the will. Certainly this is the identical case before this court.

In *Batsford v. Kebbell*,‡ the testatrix gave to Robert Endley dividends of stock until he attained thirty-two, at which time she directed her executors to transfer to him the principal. He died before thirty-two.

Lord LOUGHBOROUGH said :

"I have read over the will, and have looked into the cases, and am confirmed in my opinion. Upon the cases it appears that dividends are always a distinct subject of legacy, and capital stock another subject of legacy. In this case there is *no gift but in the direction for payment*, and the direction for payment attaches only upon a person of the age of thirty-two. Therefore he does not fall within the description."

* 2 Dr. & Sm., 532.

† 3 Dr., 98.

‡ 3 Ves., Jr., 363.

In *Vawdry v. Geddes*,* the principal of a residuary estate was given to children at twenty-two with limitations over.

Sir JOHN LEACH said :

" I am not able to distinguish this case from the residuary gift in *Leake v. Robinson*. * * * In that case Sir WILLIAM GRANT proceeds upon this principle—
" that the prescribed time cannot be considered as marking only a time of postponed payment, *because there is no antecedent gift*—no gift but in the direction
" to pay at the particular period."

In *Drake v. Pell*,† executors were directed to hold the residue of an estate in trust until the majority of the youngest child, and then to make distribution equally among the children.

The court said :

" The principal or capital of the residue of the real estate devised to the executors in trust, that is to say, the beneficial interest or ownership in it, was not given away, but remained undisposed of until the youngest came of age. Even when that period arrived, the will contains no express gift in terms to the children, though the direction to the executor to sell and divide the proceeds equally between the nine children, or to make partition and convey to them, imports and carries with it a gift. The *time appointed* for doing this, however, is *here of the substance of the gift*, and not for carrying a gift previously made or expressed into effect. It is not the case of an immediate gift which takes effect from the death of the testator, and where time allowed for realizing the benefit of it operates merely as a postponement of payment or of the enjoyment of the property given."

In *Duffield v. Duffield*,‡ the testator devised lands to trustees in trust, in case there should be but one son of his daughter attaining the age of twenty-one years then for such son and his heirs; in case there should be two or more such sons attaining twenty-one, then in trust for the second son and his heirs; in case there should be no such son, then in trust for such of his granddaughters as should first attain twenty-one, &c. At the death of the testator there were living five children of his said daughter, one infant son and four infant daughters. Questions arose concerning the vesting of the devised estate, and the right to the rents and profits until some son or daughter should attain twenty-one under the terms of the gift. On the one hand it was claimed that the estate vested in the infant son, subject to be divested by his death or the birth of a second son, &c.,

* 1 Russ. & Myl., 223.

† 3 Edw. Ch., 283.

‡ 3 Bligh, N. R., 262.

and that the rents and profits belonged to that person in whom from time to time the estate might be thus vested, subject to be divested. On the other hand it was claimed that no estate vested under the devise until some one child by the actual attainment of twenty-one *exactly answered the description* of the donee in the will, and became entitled absolutely to the estate; and that in the mean time the rents and profits in the hands of the trustees belonged to the heir at law. The case came on in chancery, and the questions were stated for the opinion of the Court of King's Bench, who certified their opinion that no estate vested until some child became entitled at twenty-one; and that the intermediate rents belonged to the surviving trustee under the will, for the use, of course, of the heir at law. The Vice-Chancellor, not satisfied with the certificate, decreed that the infant son took upon the testator's death a presently vested interest in fee, subject to be divested by his death or the birth of a second son, &c., and so the case came before the House of Lords. Lord ELDON there stated the situation of the case, and said, page 312 :

" As the judgment stands, the eldest, though he should not attain the age of twenty-one, is held entitled to the rents and profits.

" Upon the birth of a second son, he, according to the judgment, becomes entitled, **divesting the right of the first son.** If the second son should die under the age of twenty-one, the right to the rents and profits shifts back again to the first son; and there may be ten sons in existence in the twenty-one years, who may each have some enjoyment; so, under this process of shifting the right, daughters might take before the events prescribed by the will: the age of twenty-one, or marriage with consent; and according to the same doctrine, the remainderman might take the estate every other year.

" Such being the case, I have conversed with other noble lords on the subject; and this appears to me to be a question which the house would not be justified in deciding, without calling on the judges for their opinion. It would have been a great satisfaction if I could have looked in this case only to the interest of the parties, but considering how few of these cases, upon questions of vested or contingent interests have come before this house, and that it is the duty of judges to decide questions with a view to all other persons having similar interests, and affected by the same circumstances, and *saying no more than that I have great difficulty in acceding* to the doctrines of the judgment in the court below, I cannot advise the house to proceed to judgment in this case, without having the opinion of the twelve judges on the matters of law comprised in it. I therefore

“ move, that the judges be summoned to attend, and that the case should be argued
“ before them in the next session of parliament.”

Accordingly the case was argued before all the judges in the House of Lords, and BEST, C. J., delivered the unanimous opinion of the judges, that no interest vested except in such child as by attaining twenty-one, should *answer the description of* the devisee in the will ; and he said, page 333 :

“ It is impossible to say that the words of this will do not import *conditions precedent to the vesting* these estates. The estates are not given to *any particular children by name*, but to *such children* as shall attain the age of twenty-one years. “ Until they have attained that age, *no one completely answers the description which the testator has given* of those who are to be devisees under his will, and therefore “ *there is no person* in whom the estates can vest. It is an established principle of “ *law*, recognized by all the cases that are in the books, and founded on the nature of “ *things*, that estates must remain contingent until there be a person having all the “ *qualifications* that the testator requires, and *completely answering the description* “ *given* of the object of his bounty in his will.”

Under this will, the trustees have powers and discretions to execute after the death of Mrs. NEWBERRY. They have this first distribution of the estate into two equal parts to make, and upon the equality and correctness of that they are to exercise a conclusive judgment. They are first to ascertain the two shares, and one of them for a public use. What parcels of this property ought to be assigned for the library cannot be determined now, and yet they are to designate this before the fund or estate for the next division will be ascertained, or in a state to be divided. The very site upon which they will find it most judicious to erect the library building, may be now outstanding as a part of Mrs. NEWBERRY'S life estate, and so out of their control until after her death. There are elements of discretion here which they cannot execute until they have this estate in their hands. The convenience of the trust, therefore, concurs with the express direction of the will. It is not until they have executed this first power of division of the whole estate, and have ascertained one-half for the public use, that there is any direction to them to distribute the other half among the surviving descendants.

From every point of view, therefore, there is no gift under this will, except to such persons as answer the description of surviving descendants at the *time of distribution*. Until that

time arrives, and this class is ascertained beyond further contingency, or chance of change, no interests vest; and as is said in *Duffield v. Duffield*, by BEST, C. J.: "Whilst estates remain contingent, those in whom they are at a future time to be vested, have no interest in the estates, or the rents and profits of such estates." The contingency in this case lies in the uncertainty of the *persons* who will prove to be the donees under this will.

Now, it is very plain that the death of the daughters without issue removed none of this uncertainty, and, consequently, no interests vested at the death of JULIA NEWBERRY.

What contingency was removed by the death of JULIA NEWBERRY without issue? What thing material to this trust, uncertain before, became certain and ascertained by that event? Why, plainly, only this. It became certain, then, that the provisions for the daughters and their issue had failed, and could never be carried into effect. It became probable, and only probable—not certain, that the gift over would take effect eventually. That was not certain, for there might be no descendants at all at this period of distribution as it is fixed under the will.

But who among the descendants were to take? Who were to be the surviving descendants to compose the class for distribution? Why, only those surviving at the time of distribution, after these three lives, under the terms of this will. Upon that question, who these survivors would be, the death of JULIA NEWBERRY threw no light. The persons to take remained and remain as uncertain as before, and the remainders continued as contingent as before.

The case of *Marriott v. Abell*,* was this: Eight persons had distinct vested properties in an estate to be divided after the death of a life tenant. They were subject to a limitation over to survivors in case of the death of any of them before 21. If one of those persons died before 21, the other seven were entitled by survivorship, to his property. Now, one after another, all the eight died before the period of division; and it was claimed that, as and when each one died, it then became certain

* 7 E1 L. R., 473.

that the interest given to him and to his children failed, and that thereby his interest passed to and became vested in the others surviving; that so the *whole* estate became vested in the *last survivor*, and the bill was filed by the personal representatives of the last survivor, though she died before the time of distribution. It was claimed, exactly as in *Cambridge v. Rous*, that "survivors" meant survivors *inter se*. The case says: "The plaintiffs contend that, as to each share, the *survivors* are "to be ascertained" at the time when the share went over." The court said, not at all. The interest of each who died has failed, to be sure; but it remains to be seen at the *time of distribution*, whether any will be survivors or not. Words of survivorship refer to the period of division, if there is such a period; and the limitation of survivorship is not to those who are survivors at the time when a prior interest fails. It is to those who are survivors not only then, but survivors at the time of distribution. The point was *held* that no interest vested at all in the other parties, merely because the event had happened upon which it had become certain that the estate given to one who died, failed for him and his children. And it was *held*, that the interests limited over vested only in those who answered the description of *survivors at the time* of distribution. But they *all died* before that period; and the Vice Chancellor said, that "at *that time*, there being no person to *answer the description*, "the gift over *cannot operate*." To the same effect are the cases of *Sturges v. Pearson*,* *Harrison v. Foreman*,† *Littlejohn v. Household*,‡ and *Cambridge v. Rous*.§

In all these cases there were first clear vested interests, subject only to the contingent limitations over; but when the event had happened upon which it became certain that nothing remained to the first donees or their issue, still no interest over vested, but it remained in abeyance until the time of distribution. So here at the death of JULIA NEWBERRY, it became certain that the devises to her and to her issue, had failed, and probable that the devises over might take effect; but no interest by that event was acquired by any one in the estate to go over

* 4 Madd., 411. † 5 Ves., Sr., 297. ‡ 21 Beav., 79. § 25 Beav., 49.

less he proves to be also a survivor, at the period of distribution. I submit that, if there are any rules of law that can be counted settled, this one, which ascertains the meaning and force of this testator's words of survivorship in his gifts, is settled; and this testator is entitled to the benefit of that rule, and to the protection of his purposes in this will.

In that grave of JULIA NEWBERRY, in that beautiful cemetery under the walls of that great and ancient city, Rome, which is itself the tomb of the splendors and ambitions of generations and races of men, there were buried all the fatherly affections, hopes and pride of this testator; but there still remain, undisturbed there, those principles of our jurisprudence and the sure methods and forms of our judicature, upon which my brother DEXTER amplified the other day, and which our law is established as the safeguards of property, and of the testaments of the dead; and we rest upon them here as the safeguards of this testament, and of the clear purposes of this testator.

But now, they tell us, that the widow having renounced this will, this is become a situation which is governed by the "doctrine of the acceleration of remainders." What is that "*doctrine*" of the acceleration of remainders? It is simply that where an estate is given, as to A for life, with a direct remainder to B, the remainder will take effect upon the determination, by any cause, of the intermediate estate, unless a contrary intent appear in the will.

Now, we do not dispute that this is law in any case proper for its application, but there is no room for its application here. What have we here, if your Honor please? Have we the case of a gift of this estate to Mrs. NEWBERRY, and a direct remainder over to these claimants, or any of them? Quite the contrary. We have a gift to Mrs. NEWBERRY of an annuity, less than the usual interest on one-tenth the personalty of this estate, and a residence lot for her life, with express provision that *upon her death, or failure to take for any cause*, it shall *revert to the mass of the estate* for the general purposes of the will. Such is the express provision—that whenever any person, who has been appointed the recipient of a gift, becomes incapable of

taking, as she became incapable of taking by renunciation, such gift shall revert and sink into the mass of the estate.

There is no remainder, therefore, limited to any of the orators in this bill at the death of Mrs. NEWBERRY, even of the property given to her. Under the administration of the general trusts of this will, these persons, or some of them, may eventually get a portion of the general estate; but there is no remainder over to them of the property given by this will to Mrs. NEWBERRY. When they speak of the failure of "the intermediate estate," that does not fit her estate; as to them, she is not intermediate. In the "order of estates," discussed here with so much amplification, these parties take no estate which succeeds to hers. In the order of estates, as given by this will, her annuity ceases at her death, and the residence lot sinks into the capital of the trust estate, and in the course of its administration, a part of the general fund may eventually get to some of these parties. But there is no limitation over to them, or any of them, upon the failure of any estate given to Mrs. NEWBERRY.

The next difficulty in the application of this doctrine is, that the property they claim is not the property in which her life estate is created at all. They propose to take three or four millions of real estate, and a million or so of personal property, in which no interest whatever is given to her by this will, because her interest determined in an annuity of \$10,000 and a residence lot on the corner of Rush and Ontario streets. Why, hers is not an "intermediate estate" as to them, even with reference to the property that they are claiming.

Suppose a devise of Blackacre to A for life, and a remainder at his death to B; and a devise of Whiteacre to X for life, with a remainder at his death to B, and by forfeiture, renunciation, or other cause, A's estate fails. Is B's remainder accelerated, as to Whiteacre also? In this "order of estates," these claimants fail to succeed Mrs. NEWBERRY, both in point of time and in the subject matter of the estate. As to the great mass of this property, the prior estate is in the trustees, *until the time of distribution fixed in the will*. Into that estate the property given her falls, if the gift to her fails for any cause.

Now, my brother DEXTER was very facetious yesterday over the case of *Timberlake v. Parish*.^{*} Two or three times he called your Honor's attention to the fact, that in that case the testator had given a few dollars and some shingles, and a bureau, or some such sequence of assets to his wife; and that is all very droll, no doubt, but the element of that case material to this situation is, that even where acceleration might take place under otherwise proper circumstances, nevertheless it will not be allowed, if third persons are to be injuriously affected by it.

Now, let us see how this "doctrine of the acceleration of re-
"mainders" would affect some persons not parties here. Let me call your Honor's attention to the situation of this little MAY EDGERTON, whose name appears in this record. We shall come to her again in considering the question of proper parties to this case; that is her special office in this record; but let us think of her situation with reference to this "acceleration of remainders." The testator left three brothers and one sister, Mrs. LOUISA EDGERTON. Along the line of descent from her will pass one-fourth of this whole property that is to be distributed. She has left two children, one a maiden lady in very infirm health, and about 60 years of age. The other is OLIVER N. EDGERTON, one of the claimants here, shown by the bill to be infirm and in feeble health, and in the neighborhood of 60 years old. He is the father of little MAY EDGERTON, an infant, 16 years of age; and the bill avers "that he is poor, and without
"means to suitably maintain and educate his daughter MAY." It appears, however, that eleven years ago her mother was granted a divorce, and the custody of this child; and since that time he has made no provision for her, and so far as he is concerned she is destitute and helpless in this world. If, then, this property is now distributed by the court among these orators, the chances are this child will never receive one penny. If, on the other hand, our construction of this will is correct, and this property belongs to those who are survivors at the time when the distribution is appointed, then if these two persons, nearly

^{*} 5 Dana, 346. *Wood v. Wood*, 1 Met. (Ky.) 512.

sixty years of age and infirm, should die before Mrs. NEWBERRY, one-fourth of this whole property will belong to this child, who is not even a party to this bill; though having a distinct and adverse interest to the construction sought by it. It is manifest that, so far as she is concerned, the operation of the rule would be disastrous. Let me go further. There is a legacy given in this will of \$5,000 to one of these claimants, WALTER C. NEWBERRY. Deducting from it his indebtedness to the testator, the balance of that legacy, about \$700, was paid to his assignee in bankruptcy. Suppose this case had arisen at that time, and that assignee in bankruptcy were urging here, upon this doctrine of the acceleration of remainders, that one-eighth of this property ought to be given to him. On the other hand, suppose, at your Honor's bar, the infant children of Gen. NEWBERRY pleading the provisions of this will, and that under its terms the ownership of this property was in those who could answer the description of the donees at the time of the distribution. Suppose Mr. DEXTER here, as their counsel, pleading before your Honor in behalf of these children, as against that assignee in bankruptcy, what would he say? Why, he would roar you, not "gently as any sucking dove." His voice would be heard like that of the prophet, from the fords of the Jordan to the river of Egypt, crying: Straighten out this crooked path, and make a road here for the passage of law and righteousness. This doctrine of the acceleration of remainders would assume a different complexion in his eyes, in that situation. Would Gen. NEWBERRY, under this doctrine of the acceleration of remainders, think this property was his, and so belonged to his creditors and not to his children?

But the authority is express that even in an otherwise proper case, if the other difficulties were removed, there can be no acceleration of a *contingent* estate. THEOBALD* states the rule, and the cases which have been cited to your Honor here of *Full v. Jacobs*,[†] and *Lainson v. Lainson*,[‡] and other cases relied upon for the orators, and then he says:

* *Comment. on Wills*, p. 45. † 24 W. R., 347. ‡ 18 B. 4, 5 D. M. & G. 751.

“But where a remainder is limited after a contingent interest, there is an intestacy until it is ascertained whether the contingent interest will take effect or not.”

Where, then, there is a remainder *limited after* a contingent interest, the remainder cannot be advanced or accelerated, and there will be an intestacy until it is ascertained whether the contingent interest will take effect or not. Why? Simply for the reason, that where there is a contingent interest intervening between this remainder and the estate that has failed, the contingent interest cannot move up, and therefore the remainder behind it cannot move up. To that effect is the case of *Wade-Gery vs. Handley** and the case of *Carrick v. Errington*.†

So that we come directly back again to the same issue, whether these gifts over are contingent or vested, and it appears to me that my brother DEXTER has committed the logical extravagance of begging the whole question in issue upon this point; for he says acceleration takes place when the intermediate estate is out of the way. But what intermediate estate is out of the way? Mrs. NEWBERRY's, they say. But the point is disputed, that there is any limitation to the orators upon her estate; and this begs the very point that the estate of the widow is intermediate at all. But underlying this is his proposition that “the interests became fixed and vested at the time the acceleration was made.” That was his phrase; but to my view this begs the whole question of this controversy. One question is, When do the estates vest? And the other is, Are the interests accelerated? He says the interests are accelerated when the estates vest, and the estates vest when the acceleration takes place, and upon that basis as a foundation he cites the cases that have been cited upon that point.

I ask the court to observe that all these cases, without exception, are cases of gift to one for life with a direct remainder over; and a clearly vested remainder in definite and ascertained persons. The principal cases cited were *Full v. Jacobs* and *Lainson v. Lainson*. But Vice Chancellor MALINS, who decided the case of *Dawes' Trusts* also decided the case of *Full v. Jacobs*; and

* 1 Ch. D. L. R., 155.

† 2 P. Wms. 361.

in *Dawes' Trusts* he says the gift in that case was "in effect the same as if the gift had been to A for life, with remainder to the children of B. This question was considered in *Lainson v. Lainson*, and I myself decided the point in *Full v. Jacobs*." Cases of the character above stated, therefore, are entitled to no weight here, for, as the foundation for their application, it is necessary to beg, out and out, the whole question at issue in this case. And for the correctness of this criticism, I appeal to the cases, every one of them.

Where, in England, an estate is limited for accumulation, by provisions void under the Thellusson Act, it is still held that "the effect [of the statute] is not to accelerate any gifts in the will." *

Now, I say that my brother BOUTELLE was right yesterday, when he could hardly give credit to the idea that counsel were to base themselves upon this doctrine of the acceleration of remainders. It could not apply here, because these claimants are not the remaindermen as to the estate limited. More than that, the property claimed here by them is not property given to the life tenant, or in which any estate has failed by her renunciation. More than that, their interests are contingent; and when you have exhausted the argument upon the question of the doctrine of acceleration, you are still at the same old starting point, with the question still before you whether these interests are vested interests or contingent, and you have not advanced at all.

When you have passed and solved this question, if you say they are vested, then, and not before, the question may be raised, if they can be accelerated: then, and not before, you come to the question whether, even if vested, you may ride down the express and plain words of this will, which postpone the possession till the time of distribution, when the only gift is made, and make a new will for Mr. NEWBERRY, by dispersing this property or its income now in advance.

I apprehend that any court will require to find the authority of some adjudicated cases, or the formula of some respectable text writer, before it will hold that a remainder is accelerated by

the failure of an estate on which it is *not* limited ; or that a remainder in one fund or property is accelerated by the determination of a particular estate in *another* property or fund ; or that a contingent remainder can be accelerated at all, until the uncertainty is removed from it ; and it will not answer to say that the interest is vested because it is accelerated, and that it is accelerated because it is vested, when the very question is whether it is vested at all.

No interests, therefore, vested upon the death of the daughters without issue. But even if the claimants here could be held to have then acquired vested interests, it would still be true that the *distribution* of the estate remains appointed at a time after Mrs. NEWBERRY's death ; and neither would the claimants be entitled, nor the trustees authorized, to make any payment or distribution before that time.

There is another phase of the question presented by this bill. If it be true, that Mrs. Newberry's renunciation of the testamentary estate offered her, operated so extensively upon this will as is claimed, and so seriously disturbed the dispositions directed by the testator ; if it be true that from a disposition contingent upon three events, as the elements determining a period of distribution, one has been removed contrary to the expectation of the testator ; if it be true that distribution is not now to be made at the death of Mrs. NEWBERRY, then it becomes a very grave question whether the legal result is that which is claimed in the bill. If the distribution is no longer to be made upon the circumstances prescribed in the will, it does not follow that it is to be made upon other circumstances not so prescribed. That it is no longer to be made upon the event of three lives, does not establish that it is to be made upon the event of *two* lives, and the *election* of Mrs. NEWBERRY. Express direction must be found in the will for that. The estates claimed here are contingent, and can arise only under the circumstances prescribed in the will. Every element combined among those circumstances is a *condition precedent* to the arising of any interest at all. If, therefore, any element so combined becomes impossible, or for any reason must be dropped from the combination, no estate can *arise* upon the remaining events or circumstances unless express direction to

that effect can be found. Without such express direction, therefore, if the theory of the bill is correct, there is *no gift* to the claimants here. There is no gift to any one upon the death of the daughters and the renunciation of Mrs. NEWBERRY; nor to any except those who can take exactly under the terms of this will. There is no gift to any persons but those answering its description; and persons who are described as descendants *surviving at a distribution after the death* of Mrs. NEWBERRY and her two daughters, cannot answer the description by saying they are descendants surviving after the death of the two daughters, and the *renunciation* by Mrs. NEWBERRY of her testamentary estate. It is as well settled as anything can be by the authorities, that the answering all the elements of such a description is a *condition precedent* to the arising of any estate or interest at all. Any one claiming under this gift over, must show that the exact circumstances under which the gift is given have happened, or there is *no gift* by the will.

I call your Honor's attention to the very explicit language in Smith's Supplement to Fearne,* declaring that it matters not how irrational, how unreasonable, how immaterial or trivial may be an event or circumstance, if an estate is *to arise* upon that specified event or circumstance, it must occur precisely as laid, or the estate cannot arise.

In *Roper on Legacies*, it is said :

" Where the testator, in the disposition of his property, overlooks a particular event, which, had it occurred to him, *he* would in all probability have provided against, the court will not rectify the omission by implying or inserting the necessary clause; conceiving *it would be too much like making a will for the testator*, rather than construing that already made." P. 1463.

Now, by the very *hypothesis* on which the bill is founded, the renunciation of the widow was an event *unexpected* by the testator. The claim is, that he expected she would take the testamentary estate, and fixed the time of distribution with that expectation. But he has so fixed it, that the *time* of distribu-

* Smith on Executory Interests, 688.

tion determines the class, and enters into the *description of the distributees*. How then can it be pretended that these interests are to arise in a situation and under circumstances confessed by the *hypothesis* not to have been contemplated or intended by the testator ?

In *Wing v. Angrave*,* husband and wife made separate wills. The husband gave his estate to the wife, but if she *died in his lifetime*, to W, in trust for the children, and if they all died under 21, to his own use. The wife gave her estate to the husband, but if he *died in her lifetime*, then to W, as in the other will. Both died *at the same instant*, being washed off the deck at sea by the same wave, and perishing with all their children. It was *held* in the House of Lords, that in the absence of evidence showing that one actually survived the other, the gift could not take effect under either will. To the same effect are all the cases on this subject. †

It will not do to say that this will has become as if Mrs. NEWBERRY had never been mentioned in it, and no use had been made in it of her life. That would be a false theory, and based upon falsehood in fact. The real case is just what has occurred, and any theory must be founded upon the truth of facts. The real case is, not that the testator made a will and made no mention of her, but that he made a will and mentioned her, and she has renounced it. That is what is passed upon directly by the supreme court in *McMurphy v. Boyles*.‡ There the widow renounced, and claimed that *as to her*, it was as if there had been no will. The court said no; it is not as if there had been no will; it is as if there had been a will, and you had renounced it. There is a will here notwithstanding, and you cannot argue that will out of existence, nor put it out of existence by any act of yours. And the same is true in the case at bar.

Now, if your Honor please, much has been said by counsel upon what they call the general intent of this will. They have spoken of the nearness of blood, and the warm affections of

* 8 H. L. Ca., 183.

† Theobald, 268, § 5; 283, § 4; 333.
Holmes v. Craddock, 3 Ves., 317.
Doe v. Wilkinson, 2 Durn. & E., 209.

Smith on Executory Int., 688.
Shuldum v. Smith, 6 Dow., 22.
Lett v. Crandall, 10 Sim., 112.

‡ 49 Ills., 110.

this testator to the orators in this bill, and his overriding purpose to provide for them. Mr. DEXTER asks why the testator should, according to our view, discriminate for some and against others? Our answer is: he has not discriminated for or against any one. He has simply declared to whom his property is given. He says: At such a time my trustees shall distribute this property to such descendants of my brothers and sister as may be then surviving. That is not discriminating for any one or against any one, but simply defines to whom these gifts shall go. They are the donees who may answer the description of the donees.

What, then, has occurred, if the court please, to justify any one in imagining an intention of the testator different from what is declared by the plain words of this will? If the scheme of this will is not satisfactory to these collateral relations, who would profit by a present distribution, or if it is not quite satisfactory to counsel, or to some gentlemen who have formed a mental picture of a handsome and costly library building as a nucleus for their elegant residences, still, that is nothing to the purpose, if the testator's scheme is legal, and if his language is plain. The language of this will is plain and it is legal. Nobody has ever disputed that. To do anything else than follow the language of this will, you must take away the meaning and the force from a very large part of it, and the rule is, that in construction, meaning and force shall be given to every part.

But what ground have counsel to imagine that this testator intended anything different from what he has said? What variation has come about in the circumstances of these parties, who claim under this general intent, which justifies them in saying that this will should be given any other import than that which it bears on its face, or can justify the court in believing that if Mr. NEWBERRY were to make this will to-day, it would be expressed otherwise than as the actual will is expressed, as we have it here now? None of these parties are in any different situation from that they were in when Mr. NEWBERRY made this will, and when he died. None of them are persons with whose interest and fortunes he ever charged himself. He knew when he made this will and when he died every single fact that

That is the position of the trustees in this situation. A few individuals out of the number *in esse* who may possibly be members of the class entitled to share in the distribution of this fund, at the time arrives, present a bill to compel a present distribution to them, and they make none of those persons parties to represent the other side of the question which the court is asked to determine. The court is asked to direct these trustees to pay over money when the trustees represent that, in their view, other persons stand in the same position, and are just as likely to be eventually entitled to this money as those who are named in this bill. We think the court can make no decree which will protect them unless these other persons are parties and are given an opportunity to be heard. In this situation, they have endeavored, by your Honor's indulgence, to present as fully as the circumstances would allow all sides of this question. They are advised, and they believe, that it is the expressed intention in this will, and was the intention of the testator, that this fund shall be given to the donees described in it,—the living descendants of the testator's brothers and sister at the death of Mrs. NEWBERRY, or at the time of distribution after her death; that no persons, not answering that description, are donees under this will; and that this is without discrimination for or against any one. That event is the test by which the donees are to be ascertained. Until the event happens in which that contingency of survivorship depends, the persons are uncertain, the persons to take are uncertain, and it may be, that by failure of any descendants, this limitation over may never take effect at all.

In this situation, the trustees desire simply to do their duty. It is not the law that these persons are now entitled to this fund, nor do they will distribute it to them as willingly as to any others. It is not the law that these persons are now entitled to this fund; if, as they are advised, the whole limitation over is contingent, then they feel it their duty to stand loyal to this will, and loyal to the express intention of their testator; subordinating themselves at all times, with respect, however, to the desires of the court and to the mandates of the law.

is set up in this bill as a ground for the intervention of this court. These claimants were in the same situation then as now, and he did for them what he cared to do. Upon what ground is the court to change his legal purpose and do differently? To all this class of relatives he made such bequests as he intended to make. What were they? He had a sister, to whom he gave an annuity of \$500. She has since died. He gave to his nephew, WALTER C. NEWBERRY, the sum of \$5,000, but he directed that out of that should be taken his indebtedness to the estate, and there remained about \$700 which was paid to his assignee in bankruptcy. Practically, therefore, this sum was the legacy. HENRY L. NEWBERRY was killed after the war, and the bill alleges that his children are poor. But he was dead when the will was made, and the testator knew the state of his family. The situation has not been changed. Being in just the situation in which the court is to-day, he gave \$1,500 for these children, and that is all—out of an estate appraised at about \$3,000,000 when he died. He gave to FANNIE L. EDGERTON, his niece, \$2,500. He gave his niece, Mrs. LOUISA CANDEE, \$1,000. They are by that much in better condition than they were when the will was made; and that is all he gave these relatives. Nevertheless, all the facts presented by the bill existed when he died. There is here no overriding purpose to provide specifically for the individuals who are the orators here. On what ground of reason or law are we to interfere now and make a new will?

It will be impossible for the court to render any decree upon this bill in favor of the orators, which will protect the trustees, without other parties than are now before the court.

When the question is, for example, whether OLIVER N. EDGERTON or his daughter MAY is the donee of this fund, the court can make no decree which will protect the trustees in the payment to him, when MAY EDGERTON is not a party to this bill and before the court; and the same is equally true in regard to all other persons who are contingently interested under the will.*

* *Sears v. Hardy*, 120 Mass., 529.

That is the position of the trustees in this situation. A few individuals out of the number *in esse* who may possibly be members of the class entitled to share in the distribution of this fund, when the time arrives, present a bill to compel a present distribution to them, and they make none of those persons parties who represent the other side of the question which the court is asked to determine. The court is asked to direct these trustees to pay over money when the trustees represent that, in their view, other persons stand in the same position, and are just as likely to be eventually entitled to this money as those who are the orators in this bill. We think the court can make no decree that will protect them unless these other persons are parties and have an opportunity to be heard. In this situation, they have endeavored, by your Honor's indulgence, to present as fully as the circumstances would allow all sides of this question. They are advised, and they believe, that it is the expressed intention in this will, and was the intention of the testator, that this fund shall be given to the donees described in it,—the surviving descendants of the testator's brothers and sister at the death of Mrs. NEWBERRY, or at the time of distribution after her death; that no persons, not answering that description, are donees under this will; and that this is without discrimination for or against any one. That event is the test by which the donees are to be ascertained. Until the event happens upon which that contingency of survivorship depends, the gifts are uncertain, the persons to take are uncertain, and it may be, that by failure of any descendants, this limitation over may never take effect at all.

In this situation, the trustees desire simply to do their duty. If it be the law that these orators are now entitled to this fund, surely they will distribute it to them as willingly as to any others. If it be not the law that these persons are now entitled to this fund; if, as they are advised, the whole limitation over is contingent, then they feel it their duty to stand loyal to this will, and loyal to the express intention of their testator; subordinating themselves at all times, with respect, however, to the decrees of the court and to the mandates of the law.

INTENTION OF THE WILL.

It does not appear from the will that it was the testator's intention to secure the accumulation of the estate to any specified amount, or he would have named the amount.

Nor was it his intention to have it accumulate up to a fixed point of time, or he would have specified the date, and not left the time dependent upon deaths that might happen within thirty days, or not within thirty years.

Nor was it his intention to have it accumulate until the death of his wife, because his wife might die leaving one or both of the daughters, and yet it could not be distributed.

Nor was it his intention that it should be distributed upon the death of his daughters, because the wife's interest remained a charge upon the whole estate if she survived them.

Nor was it his intention to leave any part of the estate undisposed of, because he provided that all legacies or bequests that might fall in, should become part of his residuary estate, which in default of issue to the daughters was to go to the complainants.

Nor was it his intention, in default of issue of daughters, and after wife and daughters were provided for during their lives, and certain small bequests were paid, that any person whatsoever, save these complainants, should take his estate, for he nowhere created any trust or charge in favor of any such person or object.

The will reveals a primary and a secondary intention.

The primary intention was to provide for his wife and daughters, for life only as to them.

The secondary intention was in default of issue to the daughters, to provide for his collateral relatives, and the city where he had prospered.

The devise over to complainants was an alternative limitation upon the lives of three, each of whom had a life interest, showing that the alternative was not the end of any particular life, but the end of estates.

The facts having failed upon which the primary intention of the will could be carried out, to wit, the death of the two daughters, the secondary intention has now become the controlling force and power of the will.

Testator's will reveals no purpose to discriminate in favor of the remote, and against his immediate collateral relatives. His consideration for them, indicated by the provision in their behalf, rebuts the idea that he desired accumulation of his vast estate to go on side by side with their poverty.

II.

ACCELERATION.

The rule in regard to the acceleration of estates is well stated in Jarman on Wills, Vol. 1, p. 539:

“The doctrine evidently proceeds upon the supposition
“that though the ulterior devise is, in terms, not to take
“effect in possession until the decease of the prior devisee,
“if tenant for life, or his decease without issue, if tenant
“in tail, yet that in point of fact it is to be read as a limitation in remainder, to take effect in every event which
“removes the prior estate out of the way.”

The following cases fully support the rule as above quoted from Jarman, and are explicit to the effect that

Supreme Court of Illinois,

CENTRAL GRAND DIVISION,

JANUARY TERM, A. D. 1878.

ELIPHALET W. BLATCHFORD, *et al.*,
APPELLANTS,

vs.

HENRY W. NEWBERRY, *et al.*,
APPELLEES.

APPEAL FROM CIRCUIT COURT OF COOK COUNTY.

ARGUMENT OF

MCCAGG, CULVER & BUTLER,

FOR APPELLEES.

Ezra B.

Leelan, Jr.

Henry Culver

Filed

Clerk.

C Beach, Barnard & Co., Printers, Chicago.

CENTRAL GRAND DIVISION

JANUARY TERM A. D. 1922

ELIPHALET W. BLATT, JR. vs. ...

HENRY W. NEWELL, vs. ...

APPEAL FROM ...

ASSIGNMENT OF

MCCAGG, SUTHERLAND & ...

Esia ...

Filed



IN THE
SUPREME COURT OF ILLINOIS,

CENTRAL GRAND DIVISION.

JANUARY TERM, A. D. 1878.

ELIPHALET W. BLATCHFORD AND WILLIAM H. BRADLEY, TRUSTEES UNDER THE LAST WILL AND TESTAMENT OF WALTER L. NEWBERRY, DE- CEASED,	APPELLANTS,	} APPEAL FROM CIRCUIT COURT OF COOK COUNTY.
vs. HENRY W. NEWBERRY, AND OTHERS,	APPELLEES.	

BRIEF FOR APPELLEES.

Walter L. Newberry, a prominent citizen of Chicago, worth perhaps five millions of dollars, made his will on the 30th day of October, 1866. He died November 6, 1868. The will was admitted to probate December 8, 1868. He left a widow and two unmarried daughters. He provided in his will for an annual payment of ten thousand dollars for his wife, during her life, which (except some small bequests since paid and not material to enumerate) was a first charge upon his whole estate. He also left to his wife all household furniture, horses, carriages, &c., and a life estate

in the homestead, situated in the City of Chicago. The remainder of the net income of his estate was to be divided equally between his two daughters, for life, with benefit of survivorship between them in such income. After their lives, his whole estate was to go equally to the children of his daughters, the child or children of either taking the whole in default of lawful issue from the other.

In the event of the death of both daughters without issue, the estate devised to them and their issue was (subject to the life interest of the widow) to go, one-half to the descendants of the testator's brothers and sister, and one-half to a Public Library for the City of Chicago.

Both of the daughters have died without issue. The widow, within one year, renounced her rights under the will and took, under the law of Illinois, one-third of the personalty, and her dower in the realty, which has been apportioned.

The testator had three brothers and one sister, who died:

Henry Newberry, July 25th, 1863;

Elihu Newberry, March 10th, 1860;

Amasa Newberry, April 15th, 1858;

Louisa Edgerton, December 19th, 1872, she being 86 years of age and 18 years older than testator.

One daughter died in February, 1874; the other in April, 1876.

The testator invested two trustees with such authority and power as might be necessary to carry into effect the design of his will.

He further provided as follows: "In case of the death of both of my said daughters without leaving lawful issue, then immediately after the decease of my wife, if she survive my said daughters; but if not, then immediately after the decease of the last surviving one of my said daughters, my said trustees shall divide my estate into two equal shares, my said trustees being the sole judges of the

“equality and correctness of such division, and shall at
 “once proceed to distribute one of such shares among the
 “lawful surviving descendants of my own brothers and
 “sisters, such descendants taking *per stirpes* and not *per*
 “*capita*.

“The other share of my estate shall be applied, by my
 “said trustees, as soon as the same can consistently be
 “done, to the founding of a *Free Public Library*, to be
 “located in that portion of the City of Chicago now
 “known as ‘The North Division.’”

Eight nieces and nephews, and ten grand nieces and nephews, the parents of the latter being dead, constitute the complainants who ask a present distribution of the estate. The public of Chicago, through counsel, unite in supporting the bill.

It will not be claimed that the widow has any possible interest in the estate in controversy, or that it can ultimately reach any other disposition than one-half to the public, and one-half to the descendants of the testator’s brothers and sister.

The defendants, however, assert that the death of the widow is the event upon which the public and the complainants take, and that until that occurs no distribution can be made, because, they say, the devise over is to those descendants only who survive the death of the wife, and until that time it cannot be ascertained who they are.

The complainants insist that upon the death of the last daughter without issue, the class to whom the devise was in part made, to wit : the lawful surviving descendants of testator’s brothers and sister, was in existence and capable of taking. That at that time the estate became vested in the members of the class, and that the widow’s interest having been extinguished by her renunciation, the devise was accelerated, so that complainants became entitled to immediate enjoyment thereof.

GENERAL PLAN OF THE WILL.

Before proceeding to discuss the authorities, it may be well to call attention, for a moment, to the testator's scheme in relation to the disposition of his property, as revealed in his will.

It does not appear from the will that it was the testator's intention to secure the accumulation of the estate to any specified amount, or he would have named the amount.

Nor was it his intention to have it accumulate up to a fixed point of time, or he would have specified the date, and not left the time dependent upon deaths that might happen within thirty days, or not within thirty years.

Nor was it his intention to have it accumulate until the death of his wife, because his wife might die leaving one or both of the daughters, and yet it could not be distributed.

Nor was it his intention that it should be distributed upon the death of his daughters, because the wife's interest remained a charge upon the whole estate, if she survived them.

Nor was it his intention to leave any part of the estate undisposed of, because he provided that all legacies or bequests that might fall in, should become part of his residuary estate, which in default of issue to the daughters was to go to the complainants.

Nor was it his intention, in default of issue of daughters, and after wife and daughters were provided for during their lives, and certain small bequests were paid, that any person whatsoever, save these complainants, should take his estate, for he nowhere created any trust or charge in favor of any such person or object.

The will reveals a primary and a secondary intention.

The primary intention was to provide for his wife and daughters, for life only as to them.

The secondary intention was, in default of issue to the daughters, to provide for his collateral relatives, and the city where he had prospered.

This may be called the *scheme* of the will. It was a natural and laudable one. No third intervening purpose is manifested on the face of the testament, only these two, consistent in nature and order of time.

The precedent estates first carved out for those to whom he owed his first duty, his immediate family, must be terminated before the remainder can be distributed.

Death has terminated the estate of the two daughters; the widow's has been terminated by her own act.

The testator described *estates* in his will, not arbitrary points of time ; and we must attend to the *order* and *succession* of these estates, if we expect to reach a correct construction of his will.

The devise over to complainants was an alternative limitation upon the lives of three persons, each of whom had a life interest, showing that the alternative was not the end of any particular life, but the end of estates.

The facts having failed upon which the primary intention of the will could be carried out, the two daughters having died without issue, the secondary intention has now become the controlling element of the will.

Testator's will reveals no purpose to discriminate in favor of the remote, and against his immediate collateral relatives. His consideration for them, indicated by the provision in their behalf, rebuts the idea that he desired accumulation of his vast estate to go on side by side with their poverty.

I.

THE ESTATE VESTED IN THESE COMPLAINANTS UPON THE
DEATH OF THE LAST DAUGHTER, WITHOUT ISSUE.

The devise was of three life estates, with remainder over to complainants and the public, in default of issue to the daughters.

The devises upon which the remainder over is supported were of the whole income and interest of the estate, and were therefore of the whole estate for life or lives.

Chief Justice SHAW says, in *Blanchard v. Brooks*, 29 Mass., 62 : "The gift is of the income and interest. "When applied to real estate and given for life, such a "gift is deemed and construed to be a devise of the estate "itself."

The devise is to the lawful surviving descendants of testator's brothers and sister, and is a complete description in itself, independent of any date.

It is a class, without specification of numbers or ages. It may, like all general classes, vary in numbers. It was in existence at the testator's death, and at the death of the last daughter.

The number of the class was less at testator's death than at the death of the last daughter, yet at both of those periods, and at the present time, the words "lawful surviving descendants" are fully satisfied by an existing class.

The description of the class is complete in and by itself, and that is one thing. The *time when* the devise is to be enjoyed, is another, and that, as we shall show, is determined by the law of acceleration.

The accepted definition of a vested remainder will be found, as applied to this case, to vest the estate at the death of the last daughter without issue.

Fearne on R., Vol. 1, 216, says: "It is not the uncertainty of ever taking effect in possession that makes a

“ remainder contingent, for to that every remainderman for
 “ life, or in tail, is and must be liable, as the remainderman
 “ may die, or die without issue before the death of the
 “ tenant for life. The present capacity of taking effect in
 “ possession, if the possession were to become vacant, and
 “ not the certainty that the possession will become vacant
 “ before the estate limited in remainder determines, univer-
 “ sally distinguishes a vested remainder from one that is
 “ contingent.”

Chancellor KENT says, Vol. 4, Com., 236: “ The defin-
 “ ition of a vested remainder in the N. Y. Revised Statutes
 “ appears to be accurately and fully expressed. It is
 “ when there is a person in being who would have an im-
 “ mediate right to the possession of the lands upon the
 “ ceasing of the intermediate or precedent estate.”

The following statement of the rule by Chancellor
 WALWORTH is approved by the Supreme Court of Mas-
 sachusetts in *Blanchard v. Blanchard*, 1 Allen, 227:

“ Where a remainder is so limited as to take effect in
 “ possession, if ever, immediately upon the determination
 “ of a particular estate, which estate is to determine by an
 “ event *that must unavoidably happen by the efflux of time*,
 “ the remainder vests in interest as soon as the remainder-
 “ man is *in esse* and ascertained, provided nothing but his
 “ own death before the determination of the particular
 “ estate will prevent such remainder from vesting in pos-
 “ session.”

This definition is cited with approval in *Doe, Lessee of
 Poor, v. Considine*, 6 Wal., at page 476. It is useless to
 accumulate authority; the definition above given is no-
 where disputed. The rule applied to the case at bar gives
 the following results:

- 1st. The estate (the daughters being dead), is limited to
 take effect in complainants absolutely upon the death
 of Mrs. Newberry.

- 2d. The class, to wit, lawful surviving descendants of testator's brothers and sister, are *in esse*, and could, beyond all question, take if Mrs. Newberry were to die to-day.
- 3d. Her death is an event that must unavoidably happen by the efflux of time.
- 4th. Nothing but complainants' death before the death of Mrs. Newberry will prevent such remainder from vesting in them in possession.

Now, the substance of defendant's argument is that complainants may die before Mrs. Newberry, and therefore never take, but the estate go to others. That is, the reason given by counsel for the devise being a contingent remainder, is one which all the authorities assert does not prevent its becoming a vested remainder—to wit, that complainants, or some of them, may die before the determination of the particular estate by the death of the life-tenant. The only element, therefore, of contingency, urged by defendants, is the one that death may create, among the class, between the present time and Mrs. Newberry's death, but this, the law says, you may not take into account in determining the question of vested or contingent remainder, because, if nothing but death of the devisees, before the determination of the particular estate, will prevent the remainder from vesting in possession in the class now found, you have present qualified takers, and the estate vests. And with this assumption fall all their cases in relation to survivorship, based upon the ground that there is only a contingent estate in complainants at this time, and they are all to that point, such as where the estate over was limited upon the devisee coming to a certain age, which was an absolute condition, and before reaching the required age the devisee could have no capacity to take; others conditioned on birth of issue; in such cases something beside the death of the devisee, before the determination of the particular

estate might prevent the remainder from vesting in possession, to wit, birth of issue. Unless the daughters had died without issue, there was no gift to complainants; without such death the estate would have gone in a different channel. The death of the last daughter without issue was the *occasion* of the alternative gift to these complainants, and brings this case as to survivorship, precisely within the rule laid down by Jarman, Vol. 2, 694: "But where "the original gift is not vested, but contingent upon the "happening of the event the non-occurrence of which is "the occasion of the alternative gift over, survivorship is "almost necessarily referable to that event, whenever it "may happen."

What was the event, the non-occurrence [in this case the occurrence], of which was the occasion of the alternative gift over? Most undeniably the death of the last daughter without issue. At that time, the estate became a vested, indefeasible interest in these complainants, and whenever the estate vests, the persons referred to as surviving descendants are no longer doubtful. The testator will be presumed to have intended the earliest possible distribution after the class he described could take, because general words cannot be construed to effectuate an intention contrary to the legal nature of the estates testator has created.

Mr. Justice BREESE, 21 Ill., 298, says the intention must be collected upon grounds of a judicial nature.

What grounds are so sharply of a judicial nature as the quality and order of the estates created? As it cannot be claimed that testator intended a distribution until it became certain that there was in the order of his will a qualified class to take, no more can it be claimed that he meant to delay a distribution after that class could take. We get some assistance in determining when he intended the class to take, by ascertaining when, in the order of the estates he has created, they *can* take.

The estate might not go to the descendants of testator's brothers and sister, at all. So long as there was doubt on that point their rights were contingent.

There was doubt on that point until the daughters died without issue. There never was doubt afterwards. At that time the devise to the lawful surviving descendants of his brothers and sister ceased to be a contingent, and became a vested estate, with all the legal results thereto belonging, and this is in accordance with the rule of law which favors the earliest possible vesting of estates.

Doe, Lessee of Poor, v. Considine, 6 Wallace, at 475.

This brings us to our next point, which is, that

The renunciation of the widow accelerated the estate and admits the complainants and the public to immediate enjoyment thereof, and on this point the important words of the will to be borne in mind are, "immediately after the decease of my wife."

II.

The rule in relation to the acceleration of estates is well stated in Jarman on Wills, Vol. I, p. 539, (3d Eng. Ed.) in the following language :

"The doctrine evidently proceeds upon the supposition that though the ulterior devise is, in terms, not to take effect in possession, until the decease of the prior devisee, if tenant for life, or his decease without issue, if tenant in tail ; yet that, in point of fact, it is to be read as a limitation of a remainder to take effect *in every event which removes the prior estate out of the way.*"

In *Waddle v. Terry*, 4 Cold., (Tenn.,) 51, the testator gave a life estate to his wife in one-half of his estate, with remainder to his son. Upon the death of the son before

the wife, the other half of his estate, which was given to the son, was to revert to the wife during her natural life, and upon her death to his brothers and sisters. The widow renounced the provisions of the will, and took under the statute. The Court, after deciding under a statute similar to our own, that by the widow's renunciation the whole estate was opened, so far as she was concerned, and that she was let into the enjoyment of all her rights in as ample a manner as if the husband had died wholly intestate, says : " The legal effect of the widow's dissent being thus ascertained, the next inquiry is how it affects the rights of the legatees. It is clear the testator contemplated that the ulterior limitations to his brothers and sisters should take effect only on the death of his wife and son ; the latter dying before his majority, and without issue. The prior estate in the mind of the testator was, manifestly, to continue until both of these events transpired. The will expressly provides that the property is for the use ' of the wife and son during their lives or the survivors of them,' and then over, under the contingencies therein expressed, to the brothers and sisters."

" The prior estates were both for life, with a contingency in that of the son, which never happened, and the testator clearly intended that the limited estates should be determinable only by the death of the life tenants. But the one was determined by the dissent of the widow, and the other by the death of the son. On the death of the latter, it is clear, the contingent interest in remainder and expectant on the death of the son without issue before majority, became vested in the brothers and sisters ; and the question now is, shall its beneficial use and enjoyment take effect *in præsentia*, or be postponed to await the death of the widow ? Upon principle, as well as authority, we think it clear that the beneficial use and enjoyment of the interest in remainder took effect immediately on the termination of the prior estates."

* * * * " The ulterior or expectant estate is lim-

"*held on the life estates, and whatever terminates them, as once let in the remainder-men to the full use and enjoyment of the estate vested in them under the provisions of the will.*"

The Court held against the heirs, and to the effect, that on the refusal of the widow to accept the provision of the will, and the death of the son, the *ulterior* limitations to the brothers and sisters took *immediate* effect, and did not await the death of the widow.

Here, the remainder-men were let into the enjoyment of the estate during the life of the widow, although their enjoyment was expressly limited to her death.

The Court evidently thought that the estates carved out were of more importance than the language used in creating them; and when once the purpose of the testator was understood in relation to the more substantial matter,—the nature of the estates that he was using language in reference to,—a controlling rule in regard to that language is immediately found. In other words, general language must be subordinated to the estates, and not the estates subordinated to the language.

The next case to which I call the attention of the Court, is *Yeaton v. Roberts*, 8th Foster, 459:

The testator in that case gave a life estate to his wife "for and during her natural life, and no longer, and then to descend and go" to certain collateral relatives. In this case the widow renounced, and the heirs-at-law claimed, the income of the property up to the time of her decease, and some of the devisees also claimed that the property should be kept together until the death of the widow, as thereby after-born children might be included.

The Court said: "Whether, therefore, we consider the devise to Mary Yeaton as having lapsed by her refusal to take it, according to the decision in the like case, etc., or according to the case put by Coke of a remainder

“ given to an infant, who, on coming of age, refuses it, we
 “ treat the life estate as having for the moment vested in
 “ Mary Yeaton, the consequence seems to be the same ;
 “ the children in either case, according to established prin-
 “ ciples, take the property immediately.”

In *Finlay v. King's lessee's*, 3 Peters, 346:

The testator created a life estate in his wife, Mary King, and then provided as follows: “ In case of having no
 “ children, I then leave and bequeath all my real estate at
 “ the death of my wife, to William King, son of brother
 “ James King,” etc.

There were certain conditions of marriage not important to be considered. It turned out, upon examination of the will, that the life estate of the wife did not cover the entire property of the testator, but the language limiting the enjoyment of the son to the death of the wife, as we have seen, did cover his entire estate, and the question was, whether the son should, according to the letter of the will, await the death of the widow before he entered upon the enjoyment of the entire estate, or whether he might not immediately take that portion in which the wife had no interest.

Chief Justice MARSHALL gave the opinion. He says, at page 381:

“ Why should her death be the event on which lands, in
 “ which no interest was given to her, be enjoyed by the
 “ devisee? We perceive at once the reason why the de-
 “ vise of those lands in which she had a life estate should
 “ take effect at her death, but there is no reason for post-
 “ poning possession of the lands from which she could
 “ derive no benefit, and which were not given to others, to
 “ the same period.”

The principle of this decision is, that so far as the wife had no interest, the limitation erected by the express words of the will took no effect, and that because the

widow had no interest in a certain portion of the property, neither the words of the will, nor any other reason, could be effectual in withholding it from the next taker.

So in the case at bar, the widow's interest has been extinguished, and the same object can be accomplished. It is not, however necessary to override the language of the will in this case, but only to apply to it well settled principles of legal construction.

Another case on this subject, which, while it did not turn upon this question, seems to involve the principle, is *Piercy v. Piercy*, 19th Ind., 467. This was a life estate to the wife, with this provision: "And, at her decease, the total amount of the above mentioned personal property, and money and claims, I will and hereby bequeath to my nephew, John Piercy," &c. The wife renounced, and took under the statute. The Court say, at bottom of page 469: "The purpose or intent of the testator seems to be readily seen, namely to provide for his wife during her life, and to bestow the residue, after her death, upon his nephew. Her failure to take the disposition made by him, and determination to take the amount fixed by law as her portion, does not change or make uncertain the testator's intended disposition of the residue; that is, that it should go to his nephew. *First.* His wife was to be provided for. *Second.* After that, the balance should go to his nephew. She renounced the provision, and claimed under the law. We do not perceive but that the residue, whatever it is, may still be his. * * * Whether after her portion is set aside, the balance is sold, and the proceeds paid over to the legatee, or the property set apart to him, we suppose is not material."

Another case, supporting the same doctrine, is *Armstrong v. Park's devisees*, 9 Humph., 195. In this case, there was an estate to the wife during her natural life, and at her death, over to other legatees. Among other things, there was a fund of twenty thousand dollars created for

the use and benefit of the wife during her life. The widow renounced under the will.

Judge Turley, in delivering the opinion of the court, in speaking of this fund, charged with the annuity, says: "That the object for which it was solely created, having failed by the dissent of the widow, as completely as it could have failed by her death;" and, after such dissent, the fund could not be separated from the estate and passed to the devisees, under the will.

The same rule is held in *Macknet's executors v. Macknet*, 24 N. J. Eq., 277. The testator gave to his wife, as part provision for her, in lieu of dower, the use of a house and lot, or the rents thereof, and also a fund to trustees to secure an annuity to his wife, during her life or until marriage, and after her decease or marriage, to an infant daughter. The language was: "And after her decease or marriage, to permit my daughter, Hattie, to use and occupy," &c.

The wife refused the provision in lieu of dower. Held that the devise and bequest vested in the daughter in possession immediately upon testator's death.

The same doctrine is sustained in 2 Jones' Eq., (N. C.) 244, *Adams v. Gillespie*. The testator bequeathed personal property to his wife for life, and then to his daughter for life, and then to the daughter's children. The widow dissented. The Court say: "The dissent of the widow has removed her life estate from all the property given to her by the will, and which she does not take independent of it, and the effect of it is to hasten the enjoyment of the life estate devised and bequeathed to the testator's daughter."

In *Holderby v. Walker*, 3 Jones' Equity, (N. C.) 46, the devise was to the wife during her life, then the following language: "At the death of my beloved wife, I desire all the estate, real and personal, embraced in the above bequest in her favor, as well as the increase of the negroes

“ fully to the authorities and I am unable to distinguish the
 “ case where a person gives an estate to another and that fails,
 “ from a case where the testator himself directs that it shall
 “ fail. Although the expression used is that the estate to the
 “ son of John Lainson is only to take effect from and after
 “ John Lainson’s decease, I am of opinion that the meaning
 “ is, from and after the determination of his estate by death,
 “ or otherwise. I must make a declaration that there is an
 “ acceleration of the estate to the oldest son of John Lain-
 “ son.”

This case was afterwards heard on appeal before the High Court of Chancery, 5 DeG., M. & G., 754, where it was held that the words, “ from and immediately after his decease,” following a limitation for life in general, point out the order of limitation merely; and that where a testator revoked a limitation for life, which was followed by these words, introducing subsequent limitations, the remainders were accelerated.

Lord Justice Turner said: “ If John Lainson had died, “ there can be no doubt that the grandson would have “ come into possession immediately. And what difference “ does it make whether the previous estate is removed by “ death or revocation? ”

In the case of *Evestaff v. Austin*, 19 Beavan, 591, the testatrix devised and bequeathed real and personal estate to invest and pay one hundred pounds per annum to her grand-daughter, Adelaide Dalton, for life; then further, “ I “ direct that *after her death* the same shall be equally di- “ vided between the children of my nephew John Austin.” By codicil the testatrix revoked the one hundred pound annuity to Adelaide Dalton.

The Master of Rolls, SIR JOHN ROMILLY, held that the enjoyment of the annuity of one hundred pounds was accelerated to the children of John Austin.

It is plain in this case that the acceleration of the legacy might give it to a greater number than would take

at the death of Adelaide Dalton, but the court, notwithstanding this result, did not retard the estate, evidently holding that the takers were to be determined at the time of the acceleration, and not at the time previously fixed by the language of the will.

The case of *Full v. Jacobs*, L. R. Chancery Div., Vol. 3, p. 703, is an important one decided by the highest chancery court of England, as late as July, 1876.

This was a gift of a life estate to one of his two daughters, and remainder over to her children. The daughter and son-in-law were attesting witnesses, which, under the Wills Act rendered the gifts to them void, and the question was upon the acceleration to the children of this daughter.

MALINS, Vice Chancellor, says:

“ I take that to be as clear a remainder to the children, as the law could possibly create. He says: ‘ I give the property to A, for life, and after the decease of A, to B,’ or ‘ after the decease of A, to A’s children.’ It is a remainder vested, if there are children, or contingent if there are no children. Whenever the life estate expires, those in remainder take. Therefore, under the old law, when life estates were forfeitable by any of those acts which formerly would have caused a forfeiture; where property was limited to A for life, and after the decease of A, to A’s children, if A had forfeited the life estate, his children would have immediately a right, because ‘ from and after the decease,’ means from and after the determination of the life estate, and however it is terminated, whether by the death of the tenant for life, or by forfeiture, it is equally gone. If it was given to A for life, and after the decease of A, to B, and A forfeited, B would have immediately had a right of entry, having the next remainder. And it is not contingent on account of taking effect only after the death of A. Therefore, in my opinion, it is perfectly clear that the daughter is,

It is unnecessary to cite more authorities on this point, because there are absolutely none on either side of the water against those already referred to. Nor are the authorities more conclusive on this subject than the dictates of natural reason and public policy. What reason can any man give for tying up this estate for a term of years, when both the interests of the public and the interests of complainants demand its distribution?

The law and public policy are both against estates in perpetuity or abeyance. The welfare of society is advanced by the active use of property. The law does not wait for heirs, but favors that construction which promotes speedy enjoyment of property, and no reason can be given why in this case there should be longer delay.

It appears by the bill that there are twenty-six children of testator's nephews and nieces. That twenty-two are growing up in poverty, and without education; without being prepared to wisely use this estate that must some time come to them. Can it be possible that the testator intended that this useless hoarding of a great estate should go on, side by side with the destitution of those bearing his own name, and for whom he cared enough to make in their behalf the provision under discussion?

It can hardly be claimed that the testator could have had an intention that the library fund should not go into active use immediately after the removal of the encumbrance in favor of his wife upon the whole estate. For it is absurd to suppose that the testator intended to make the disposition of the library fund depend upon whether more or less of his brothers' and sisters' descendants were living at a given period. The takers of that fund were at all times certain, with a continuation even of the same trustees.

Take that case by itself; a provision for life to his wife; then over to the library fund, and no lawyer would contend that the library fund was not accelerated by the extinguishment of the wife's life estate.

Yet, the testator has made complainants takers at the *same time* that the public take, which is an almost unanswerable argument to show that, when the only obstacle was removed to the distribution of the library fund, namely, the wife's interest, that testator expected the complainants' share would be distributed at the same time.

The entire argument of appellant is, in effect, that if there is a present distribution, some of the surviving descendants of the brothers and sisters may now take, who would not take upon the death of the widow. This argument, to have any force, must rest upon the intention of the testator. So that we come to this proposition: That testator had in his mind those descendants, and *only* those who should be alive at his wife's death.

The first difficulty that occurs to the mind, as to this theory, is that he could not know how long his wife would live, or how many of these descendants would die, before she did; and then, there is another trouble, his favorites, the ones he meant to postpone the estate for, might be the very ones who would die before the death of the wife. It is idle to discuss particular words, except upon the theory of an intention. The words under discussion, "lawful surviving descendants," are a general description of a class that was in existence at testator's death, and has been in existence ever since. It is a description without discrimination by names, date or numbers, and is as complete to-day, as it can be upon the widow's death. The language is open to construction; and when we press appellants for a reason why testator should prefer the class as it may be found at the widow's death, rather than at the present time, none can be given, save only that he had in his mind the class as it would exist at her death, which, as we have said, is absurd, because he did not know when she would die. It will not do to say, that such is the language of the will—for that is the question between us. The devise is certainly not in express terms to those surviving the widow's death, which appellants

concede by the introduction of nearly an hundred authorities to aid construction; besides it is clear enough that testator did not use the words "lawful surviving descendants" as applicable to his wife's death, and no other period, because he uses precisely the same words in the order to distribute upon the death of the last daughter, that he does in the order to distribute upon the death of his wife, showing that these words were not to his mind an arbitrary limitation of time, but a limitation upon the *extinguishment* of estates, and that the language applied equally well, in point of time, to the death of the last daughter as to the death of the wife, and that its only importance, in either case, was to mark the termination of an interest in his estate. It is not seriously claimed that the will reveals any intention to have the estate accumulate to any particular amount, or to any time, because no amount is specified, and the time is left dependent upon deaths that might occur at any time, which excludes all motive in the mind of the testator for postponing distribution but the one we have assigned.

The lawful surviving descendants referred to in this will, as a class, are now in existence, and before this court; they are the next takers. Every precedent interest has been extinguished. The wife being already dead to the will by her renunciation, there is no such period of time as defendants insist upon discussing, to wit: the physical death of the wife, that can have any bearing upon the construction of this will.

Admit appellants' proposition that there is a doubt as to who the next takers are, that must be solved by the period of distribution; and they are answered under the unbroken line of authorities on acceleration, by the fact that the widow's renunciation has brought us *now* to the period of distribution, and to the period at which we must determine who the surviving descendants are.

In all cases where the only element of doubt as to the next takers is one that must be solved by the period of

distribution; acceleration solves the doubt by reaching the period of distribution when the intermediate estate is removed. So that to-day we can enumerate the surviving descendants with the same legal precision that we could upon the day of the widow's death, had she not renounced. Acceleration is to draw a remote period of distribution up to the present time, and brings with it and determines as of the present date, all deferred questions that ever can be settled by the period of distribution. This is the essence and scope of the doctrine of acceleration. And it is a fine illustration of the wisdom of the law; it meets unexpected and unprovided for interregnums; it hastens the execution of the testator's purposes; it forwards, confirms, and executes the trusts he has carved out of his estate; it is the fullest illustration of the intention of the testator. *The intention of the testator expressed in favor of the next taker is the intention upon which acceleration proceeds,* and the fact that the estate over is limited upon the death of the life tenant, presents no obstacle to the application of the principle of acceleration, because in law, from and after death of the life tenant, means from and after the end of the life estate, and that being out of the way, the intention of the testator manifested in favor of the next taker becomes the vital, controlling intention of the will.

The objection urged by appellants, that if the estate is accelerated, different persons composing the class, will now receive it from those who may take at the widow's death, is matter of conjecture, and might or might not prove to be so; but concede the fact, and it is an objection against the law, for it is evident that it is no part of the law of acceleration, that at the time thereof the estate must go to precisely the same persons it would go to upon the death of the life tenant. It is only required that there be qualified takers. Every estate that is capable of acceleration is, in its terms, to be enjoyed by some one in the future, and when the facts have arisen, such as the

to believe that choosing to put his name to a testament so full of public and private benefactions, he desired delay in their consummation.

WIRT DEXTER.

Printed copies of the opinion of the court below are herewith filed.

Term No. *Agenda No.*

Supreme Court of Illinois

CENTRAL GRAND DIVISION,

JANUARY TERM, A. D. 1911

ELIPHALET W. BLATCHFORD, *et al.*,
APPELLANT

vs.

HENRY W. NEWBERRY, *et al.*,
APPELLEE

APPEAL FROM CIRCUIT COURT OF COOK COUNTY.

BRIEF FOR APPELLEES.

Filed

WIRT DEXTER,

Solicitor for Appellees

IN THE
SUPREME COURT OF ILLINOIS,

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JANUARY TERM, A. D. 1878.

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BRIEF FOR APPELLANTS.

James H. [unclear]
BOUTELL & WATERMAN,
Of Counsel.

CHICAGO:

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1878.



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Statement.

Walter L. Newberry, of Chicago, died November 6th, A. D. 1868, leaving a will, in which, after a few specific bequests, he gave the residue and remainder of all his estate to Mark Skinner and E. W. Blatchford in trust, for the purposes set forth in the will. (Abst., side p. 18.) To his wife, Julia B. Newberry, he gave, in lieu of dower, the use of his homestead and eight thousand dollars (by the codicil of said will increased to ten thousand dollars) a year during her life. (Abst., side pp. 21 and 33.) The remaining income of his estate was to be divided equally between his two daughters, Mary L. Newberry and Julia

R. Newberry, his only children. (Abst., side p. 23.) Upon the death of the daughters and the wife, the property was to be divided among the issue of the daughters, if any. If the daughters died leaving no issue, then, upon the death of the wife, if she survived the daughters, if not, upon the death of the last surviving daughter the property was to be divided into two equal parts, one of which was to go to the surviving descendants of testator's brothers and sisters, and the other to the establishing of a free public library in the North Division of Chicago. (Abst., side pp. 27, 28.)

The wife, who is still alive, renounced the provisions made for her in the will, and took her share under the statute. The daughters have died leaving no issue.

The appellees, representatives of the brothers and sisters of the testator, claim that one-half of the testator's property should now be distributed to them, or that, at least, the income should be paid to them. They base their claim on two grounds :

First. That by the widow's renunciation, the period of distribution arrived on the death of the daughters without issue.

Second. That if this be not so, the contingent estate of the devisees in remainder became vested on the death of the daughters without issue, and the possession was merely postponed to the death of the wife. (Abst., side pp. 15, 16.)

Points.

I.

EFFECT OF THE WIDOW'S RENUNCIATION.

If the will contained no reference to the widow's renunciation of the provisions made for her, and so it should be claimed that if the testator had contemplated such a state of facts, he would have provided for it, this could not avail the appellees. For the rights of the parties under a will depend on what the testator has done, not on what he might have done. Courts *interpret* wills; they do not *make* them.

Ill. Land and Loan Co. v. Bonner, 75 Ill., 315, 326.

But, on examining the will, we find the following provisions in reference to the widow's renunciation :

If the wife preferred to reside elsewhere than on the homestead, it was to be relinquished to the trustees, "to become from thenceforward a part of the mass of my estate in the hands of my said trustees." (Abst., side p. 21.)

"None of the foregoing provisions for the benefit of my wife shall be operative or have any effect, but the same shall all and singular be inoperative and void, unless she shall, within twelve months after my decease, relinquish, in due form of law, all right, title, claim and demand which she may have or be entitled to by law, by way of dower or otherwise, to my estate, or any part or portion thereof." (Abst., side p. 22.)

“And it is my will, and I direct that in the case of each
 “and every bequest, and of every instance in which I have
 “directed my trustees to pay over money to any person or
 “persons whomsoever, if the person or persons to whom
 “or for whose benefit I have made such bequest, or directed
 “money to be paid, as aforesaid, shall have deceased, or
 “from any cause be incapable of taking, then the amount
 “so bequeathed, or so directed to be paid over, shall revert
 “to and become a part of my estate, unless I have other-
 “wise specifically directed.” (Abst., side p. 25.)

The testator has thus provided, in the most explicit manner, that in case the widow renounced the provisions made for her in the will, those provisions were simply to be inoperative and void, and the property given to her was to revert to and become a part of the testator's estate in the hands of his trustees. It is clear that he did not expect or intend that the widow's renunciation should affect the other provisions of the will.

By the terms of the will the distribution of the property was to take place on the termination of three lives, and is in no way affected by the widow's renunciation. The following are the clauses in reference to distribution :

“It is my will, and I direct that after the decease of my
 “wife, and after the decease of both of my daughters, and
 “after my said trustees shall have paid over to one of the
 “sons of each of my daughters the sum of one hundred thou-
 “sand dollars, as prescribed in the foregoing provision of my
 “will, then, as soon after the decease of my said wife and
 “both of my said daughters as the same can conveniently be
 “done, my said trustees shall divide amongst, distribute
 “and pay to the lawful issue of my said daughters, the
 “whole of my estate then remaining in the hands of my
 “said trustees.” (Abst., side p. 27.)

“In case of the death of both of my said daughters, with-
 “out leaving lawful issue, then immediately after the de-
 “cease of my wife, if she survive my said daughters ;

“but if not, then immediately after the decease of the last
 “surviving one of my said daughters, my said trustees
 “shall divide my estate into two equal shares, my said
 “trustees being the sole judges of the equality and cor-
 “rectness of such division, and shall at once proceed to
 “distribute one of such shares among the lawful surviving
 “descendants of my own brothers and sisters, such de-
 “scendants taking *per stirpes* and not *per capita*.

“The other share of my estate shall be applied by my said
 “trustees, as soon as the same can conveniently be done,
 “to the founding of a Free Public Library to be located
 “in that portion of the City of Chicago, now known as
 “The North Division.” (Abst., side p. 28.)

The only distribution here provided for is a final distribution. The nature of the distribution is different according as the daughters of the testator do or do not leave issue; but in each case there is to be but one distribution, and it is to be made on the happening of one event—the termination of three lives. It is evident that a distribution, while the wife retained a life interest in one-third of the property, is not such a distribution as the testator contemplated. In three other places the testator speaks of the distribution of his property, but it is always of the final distribution.

Thus, in providing for the case of one daughter dying without issue, and the survivor dying leaving issue, the testator directs that the income shall be paid to such issue “until the final distribution of my estate, as hereinafter “provided.” (Abst., side p. 25.)

Again, he directs that certain specified lots “shall not “be sold or mortgaged by my said trustees during the “lifetime of my wife and daughters, or either of them, “nor until it shall become necessary for my trustees to di- “vide and make final division and distribution of my “estate as hereinbefore in this my will provided.” (Abst., side p. 29.)

Again, he directs that permanent improvements shall first and chiefly be made on the lots reserved as aforesaid, "until it may become necessary to sell the same in order to make a final division and distribution of my estate, as hereinbefore in this my will provided." (Abst., side p. 30.)

We have thus seen that the testator provided, in the first place, what should be the effect of his wife's renunciation. Afterwards he provides for the final distribution of his property, and fixes the time of that distribution at the death of his wife and daughters. Having foreseen the possibility of his wife's renunciation, and provided for it, if he had intended that his property should be distributed on the death of his daughters, in case of his wife's renunciation, he would certainly have said so. But he has provided that the distribution should not take place till the death of his wife, in case she outlived the daughters, and he must have intended that the distribution should take place only on that event, whether his wife took under the will or under the statute. It was her death and not her dissent from the will that he had in mind in providing for distribution.

If, then, the testator has provided in plain and unmistakable language that his property should not be distributed till his wife's death, in case she outlived the daughters, it does not matter whether we can discover his motives for making that provision or not. But if the fact that his wife was to have a life interest in a part of the property had anything to do with it, then, as she would take a larger interest under the statute than was given to her under the will, there would be even a stronger motive for postponing the distribution if she took under the statute, than if she took under the will.

Nor is it unreasonable to suppose that the testator contemplated that, whether his wife took under the will or under the statute, delicate and complicated questions would arise, as they actually have arisen, in the case of special

assessments, as to the proportion of such expenses to be borne by the wife on the one hand, and by the trustees or remainder-men, on the other. He must have foreseen that in such a case it would be very important that the wife should have to deal simply with the trustees, rather than with a large number of persons scattered all over the country, many of whom would doubtless be under disabilities as minors or married women.

To this question of the motives and intent of the testator, we shall return in another part of the argument.

ACCELERATION OF REMAINDERS.

But it is claimed by the appellees that notwithstanding these provisions of the will, by the renunciation of the widow, the period of distribution arrived on the death of the daughters without issue, though the widow is still living, by virtue of a rule of law known as the Acceleration of Remainders. What then is this rule of law? And does it apply to the present case?

The doctrine of the acceleration of remainders, as we understand it, is this: Where, in a series of consecutive limitations, a particular estate from any cause fails, the remainder immediately expectant thereon at once takes effect in possession, if there is no manifested intention to the contrary.

1 Jarman on Wills, 538, (3d Ed.)

To make this doctrine applicable, several things are requisite:

1. The remainder to be accelerated must be a remainder immediately expectant on the particular estate which fails.

1 Jarman on Wills, 538, (3d Ed.)

Yeaton v. Roberts, 8 Foster, 459.

making certain specific bequests, he devised the residue of his property, amounting to about one and a half millions, to trustees, and provided, among other things, that when his son arrived at the age of twenty-one years, four thousand dollars a year should be paid to him; when he should be twenty-five, six thousand dollars a year; and ten thousand dollars a year when he should be thirty years old. The remainder of the income, and the whole of the principal, he failed to dispose of. *Held*, that there was a resulting trust to the son of all the interest undisposed of; that he was entitled to the immediate possession on arriving at the age of twenty-one, of all of the property, except so much thereof as would be necessary to produce an income of ten thousand dollars a year. At the date of this suit the property was valued at four and a half millions of dollars.

The Court say (p. 542): “ We can see no good reason “ why the trustees should retain the whole of this large “ estate, when the only purpose for which it was conveyed “ to them in the contingency which has happened, is to “ support a trust to pay an annuity which can never exceed “ ten thousand dollars. If the annuity was payable to a “ stranger, the hardship of depriving the son of the enjoyment of the estate, which is his by the rules of law, “ would, perhaps, be more apparent, but the principle is “ the same. He ought to have the control and enjoyment “ of the property, in which he alone is beneficially interested, unless it will contravene some provisions of the “ will. But if the trustees retain enough of the property “ to support the annuity, it will carry out the intentions of “ the testator, so far as they are expressed or can be implied “ from the will.

“ If, as we have supposed, this annuity was payable to a “ stranger during his life, and he had died, there is no “ doubt that there would be a resulting trust in favor of “ the son, and that he would be entitled to the trust fund, “ discharged of the trust. (*Easterbrooks v. Tillinghast*, 5

“ Gray, 17; 4 Kent Com., 307; 2 Story Eq. Jur., § 1,200.)
 “ This is the rule in all cases where the trusts, upon
 “ which an estate is devised, fail or are accomplished, and
 “ do not exhaust the property. The remaining property
 “ goes by way of resulting trust, as undisposed of prop-
 “ erty, to the person to whom the testator’s property, not
 “ disposed of by the will, goes by the rules of law. The
 “ same reason applies when the property devised is more
 “ than is needed to support the trust. The support of the
 “ trust being the sole purpose for which the devise is made,
 “ if there is a surplus beyond what is needed for that pur-
 “ pose, it is property not disposed of by the will, and
 “ descends to the heir-at-law or distributee, discharged of
 “ all trusts, without in any way defeating the intention of
 “ the testator. So far as he disposes of his property, his
 “ disposition and intention are carried into effect; so far as
 “ he fails to dispose of it, it is distributed by the rules of
 “ law. As we can see in this will no indication of any in-
 “ tention, in the contingency which has occurred, to dispose
 “ of any of the residue of the property devised to the trus-
 “ tees, except the annuity given to the son during his life,
 “ it follows that the disposition made by the testator will
 “ be carried into effect, and his intentions, so far as he has
 “ manifested them, regarded, if a sum is set aside and re-
 “ tained in trust by the trustees, which shall, in any event,
 “ be sufficient to produce the largest annuity provided for.
 “ If the income of this fund should, from year to year,
 “ exceed the annuity payable, the excess would go annually
 “ to the son, who is alone beneficially interested in the
 “ estate.”

That the testator, in the case at bar, never intended the annuity to his wife should be a charge on his entire property is evident from the following provisions of the will. After giving the annuity to his wife, he gives the remaining income to his two daughters (Abst., side p. 23), and provides, that if, from any cause, they should receive less than twenty-five hundred dollars a year each, enough of

the principal should be sold to make up that amount. (Abst., side p. 24.) He further provides, that each of his daughters shall receive twenty-five thousand dollars on arriving at twenty-five years of age, or on marriage. (Abst., side pp. 22, 23.) He also provides, that if either or both of his daughters shall have a son that shall take the name of Newberry, such son shall receive one hundred thousand dollars on arriving at the age of twenty-one, provided the principal of his estate should amount to five hundred thousand dollars when the time arrived for paying the first one hundred thousand dollars. (Abst., side p. 26.) So that it was the testator's intent, that if his property amounted to no more than five hundred thousand dollars, two of his grandsons, taking the name of Newberry, should receive two hundred thousand dollars of it, leaving three hundred thousand dollars out of which to pay the annuity to his wife, and an income of not less than five thousand dollars a year to his daughters. From these provisions, it is clear that the testator intended that the annuity to his wife not only should not be a charge on his entire estate, but that it should be a charge on less than three hundred thousand dollars of it, or rather on not over two hundred thousand dollars of it; in other words, that it should be a charge only on so much as should be reasonably necessary to produce ten thousand dollars a year.

The learned judge, who delivered the opinion in the court below, seemed to think it was not necessary that the particular estate and the remainder should relate to the same subject matter, but that the estate accelerated might cover property not included in the life estate. In support of this view, the case of *Waddle, Admr., v. Terry*, 4 Coldwell (Tenn.), 51, was cited. Judge WILLIAMS says of this case: "The will gave the widow one-half of the real estate for life, and at her death the whole estate to her son, and if he died before majority and without issue, to testator's brothers and sisters. The renunciation of the one-half by the widow accelerated the whole estate to the

“testator’s brothers and sisters, the son having died before majority, and without issue.” This proceeds upon an entire misconception of the facts in the case.

The provisions of the will were these: “After the payment of my debts, I give, devise and bequeath all of my real and personal property, of every kind and description, situated in Bolivar County and State of Mississippi, and in Shelby County and State of Tennessee, to my wife, Mary E. Manley, and my son, Thomas J. Manley, to be equally divided and held between them, as hereafter specified, that is to say: I give to my wife a life estate in one-half of all my property, and if she dies before my son, I direct the half of my estate herein given to her for life, to revert to my son, Thomas J. Manley; if my son should die before my wife, I direct that the half of my estate herein given to him, shall revert to my wife, for and during her natural life. If my son should die before arriving at the age of twenty-one years, and without lawful issue, I direct that the net proceeds of my crops shall be paid into the hands of my two brothers, John M. Manley and James M. Manley, and of my two sisters, Frances E. Pritchett and Mary E. Bryant; but if my wife should be living at the death of my son, my property shall belong to her, during her natural life, and then the proceeds to be paid over to my brothers and sisters, or their heirs, as above directed.”

“I direct that my executor shall keep all my property together, and have the plantations cultivated for the use and benefit of my wife and child during their lives, or the life of the survivor of them, and after their death, to be kept together for the use and benefit of my brothers and sisters, or their heirs, and the proceeds, after paying all my necessary expenses, to be paid over to my brothers and sisters, or their representatives, before stated. If my son, Thomas J. Manley, shall arrive at the age of twenty-one years, and shall survive my wife, I then give and devise and bequeath all my estate,

“ both real and personal, to him absolutely, or his lawful issue living at the time.”

The widow dissented from the will, and took under the statute. After her dissent, the son, during his minority, died without issue. It was held that, subject to the widow's dower, the brothers and sisters became entitled to the possession of the property on the death of the son.

What took place in this case was clearly this: On the death of the testator one-half of the property went to the son. The other half would have gone to the widow, but for her dissent. In consequence of her dissent the half of the property which would have gone to her for life went immediately to the son, in accordance with the doctrine of acceleration, that when a particular estate fails, the remainder immediately expectant thereon at once takes effect in possession. Upon the son's death, under age and without issue, by the terms of the will, the entire property, which was already in the son, went to the brothers and sisters. As to the one-half given the son, there was not, and under the circumstances could not be, any acceleration. The circumstances never happened under which the wife would have been entitled to it. Had the son died before she renounced, it might have been said that she was entitled to a life estate in the whole, and that the remainder to the brothers and sisters, in the whole property, was accelerated, because their remainder would then be immediately expectant on the particular estate which failed; but the particular estate which would then have failed would have been a life estate in the whole, and not in one-half. On the facts as they actually occurred, the estate which was accelerated was the remainder to the son in the half of the property given to the wife for life. On the facts which might have happened, had the son died before the dissent of the widow, the remainder in the whole property to the brothers and sisters might have been accelerated, but it would be because the particular estate in the whole property had failed. So that under the facts as they existed, it

did not happen, and under the only other facts possible, it never could have happened, that "the renunciation of one-half by the widow accelerated the whole estate to testator's brothers and sisters." The widow renounced one-half, and one-half was accelerated. Had she been entitled to the whole, and had renounced it, the whole would have been accelerated.

4. *The remainder is not accelerated in this case, because it is the evident intention of the testator that the ulterior devisees should not take till the termination of three lives.*

The doctrine of acceleration is based on the presumed intention of the testator that the remainder-man should take on the failure of the previous estate, notwithstanding the prior donee may be still alive. Consequently, when it is the evident intention of the testator that the remainder-man should not take till the expiration of the *life* of the prior donee, the remainder will not be accelerated.

Augustus v. Seabolt, 3 Met. (Ky.), 155, 160.

Crozier v. Crozier, cited by Lord Romilly in

Craven v. Brady, 4 Eq. L. R., 209.

In *Augustus v. Seabolt*, testator gave to his wife, during her natural life, his farm and certain personal property, and provided that if she should marry she should only hold that part of the farm lying east of the road running through the plantation. He also gave the real estate and slaves devised to his wife during her life, after her death, to be equally divided between the children of his brothers, or such of them as might be living at the time of her death. On marriage of the widow, *Held*, that the heirs at law were entitled by descent to the land lying westwardly of the lane, from the period of her marriage until her death, when the devisees in remainder would be entitled.

The court say: "It is manifest that the testator, to a certain extent, overlooked the event of his wife's marrying again, and that he did not provide to whom the land

“ ‘lying westwardly of the lane ’ should go on the happen-
 “ of such an event. It is true that he directs that all the
 “ real estate devised to his wife shall, *after her death*, go to
 “ such of the children of his brothers, naming the broth-
 “ ers, as may be then living; but they take nothing until
 “ *after the death of his wife*, and *then* only those children
 “ will take who shall be *then* living. Now, in the absence
 “ of any residuary clause in the will, can it be said, from
 “ anything in the will that the testator made, or intended
 “ to make any provision with regard to the contingent es-
 “ tate in the land west of the lane, which would exist upon
 “ the marriage of his widow, and continue unto her death?
 “ We think not.

“ His intention that her estate in that part of the land
 “ should cease on her marrying again, is expressed in so
 “ many words; and, as clearly expressed is his intention
 “ that the children of his brothers shall not take until after
 “ the death of his widow.

“ To say that he intended the devisees in remainder to
 “ take on the marriage of the widow, would not only vio-
 “ late the plain language of the testator, but it might also
 “ defeat his will in another respect, by letting in, as de-
 “ visees, persons not intended to be the recipients of his
 “ bounty, for it is not to the children alive at the marriage
 “ of the widow that he devises his estate, but to those alive
 “ at her death.

“ It is, therefore, obvious that the estate of the devisees
 “ in remainder in the land in dispute cannot, by any con-
 “ struction of the will, consistent with its language, be
 “ made to begin before the death of the widow, and equally
 “ plain that the widow’s estate therein ceased upon her
 “ marriage, thus leaving the land, between the periods
 “ designated, undisposed of by the will, and to descend to
 “ and vest in the heirs at law until the death of the widow.”

In the case at bar, if the particular property given to the
 wife for life, were given in remainder to the collateral kin-

dred, the remainder would not be accelerated, because it is the evident intent of the testator that the ultimate devisees should not vest till the termination of three lives.

In all the cases cited by the counsel for the appellees, the decisions have been based upon the expressed or presumed intention of the testator. In the leading case of *Lainson v. Lainson*, 18 Beavan, 1, the testator gave certain property to trustees to pay the rents to his son for life, and, after his death, the property was to go to his grandson. By a codicil, the testator revoked the gift of the rents to his son, and gave him an annuity instead, but made no disposition of the rents during his son's life. The question was whether the rents went to the heir as intestate estate, or the remainder was accelerated. And it was held that the remainder was accelerated, because, otherwise, the rents would go to the son as heir, which was in direct opposition to the provision of the codicil revoking the gift of the rents to the son. On appeal, in this same case, (5th De G. M. & G., 574), Lord Justice TURNER said, in announcing the opinion of the court, "No doubt a will might be drawn in such a way as to show an intention that the remainder-man should not take till after the death of the first devisee, but there is nothing in this codicil to show such an intention."

In the latest English case, *Full v. Jacobs*, 3 Law Rep., Ch. Div., 703, the testator gave certain property to his daughter "during her life time, and, after her decease, the property to be equally divided between her children, on their becoming of age." The will having been witnessed by the daughter's husband, the gift to her, under the Wills Act, became void.

Vice Chancellor MALINS, in deciding the case, said: "It is perfectly clear, in the first place, that the children are postponed to the mother, simply because the mother is to have the property for her life, but if the mother cannot have the property for her life, why are the children

“ to be postponed? The reason of their postponement
 “ altogether ceases; they are not to have it until after her
 “ death, because the testator assumed that she would have
 “ it during her life. But he was ignorant of the law, that
 “ if he called in his daughter to be an attesting witness,
 “ the very gift he made to her would absolutely fail. Now,
 “ he has postponed his grandchildren, that is, his daughter’s
 “ children, solely because the daughter was to take for life,
 “ and, if he had known that she could not take it for life,
 “ he would not have postponed the children until after her
 “ death. He would not have left her and her family totally
 “ destitute in the meantime. It is a mere accident that the
 “ daughter cannot take the life estate, and I am of opinion
 “ that the children are postponed to the daughter simply
 “ that she may have the property for life, and if she could
 “ not have it for life, the children would have had it im-
 “ mediately.”

The value of the case of *Full v. Jacobs* is, that it states with more clearness and fullness than any other case the principle governing this doctrine of acceleration, and so enables us to determine when this doctrine is applicable, and when it is not. That principle is this, that a remainder is accelerated whenever it is apparent that the only object of postponing the remainder-man was that the property might be enjoyed by the tenant for life. This doctrine is, therefore, inapplicable to a case where a testator gives a fraction of his property to A for life, and, after the decease of A, the whole of his property to B; for, as to the property not given to A, B is not postponed that A might enjoy it, and it cannot, therefore, be said that, even as to the property given to A, B was postponed simply that A might enjoy it.

This doctrine is also inapplicable to the case of a remainder limited to an uncertain person, who cannot be ascertained till the death of the tenant for life; as, for instance, a gift for life to A, and, after the death of A, remainder to the surviving descendants of B. Such was the case of *Augustus v.*

Seabolt. Counsel for the appellees have failed to find a single case where the doctrine of acceleration has been applied to a remainder limited to those members of a class surviving at the death of the tenant for life.

The case at bar comes within both of these exceptions.

1st. If the property given to the wife for life can be said to be given in remainder to the ulterior devisees, it is a very small fraction of what is given to them.

2d. Until the death of the wife, it cannot be ascertained which of these descendants are to take.

But it is claimed on behalf of the appellees that the testator intended, that after the death of his daughters, the property should be distributed on the termination of his wife's estate, and not of her life simply, for the reason that otherwise his property must accumulate, and he had made no provision for accumulation. It is, however, conceded that, if the wife accepted the provisions of the will, there could have been no distribution till her death; but in that event, if the wife outlived the daughters, there must have been accumulation, as the income does not go to the ulterior devisees; and the testator must have contemplated it, and intended it. If, therefore, accumulation was intended, in case the wife took under the will, how can it be said that accumulation was not intended when she dissented from the will, especially as in this latter case the accumulation would be less than in the former.

The testator, moreover, in the latter part of his will, in providing for the investment of money not otherwise used, seems to have had the case of accumulation in his mind. He gives his trustees full power to dispose of any of his property given to them in trust, as they may see fit, except certain pieces of real estate in Chicago particularly described. He then expresses the wish that they should make permanent improvements on his real estate, and for this

purpose authorizes them to sell any of his real estate, other than that excepted, and use the proceeds, and also his personal estate, in the erection of buildings, &c., directing that such improvements shall first be made on the real estate excepted from sale. (Abst., side pp. 28, 29, 30.)

Then comes this provision: "In making investments of money, that may from time to time come into the hands of my trustees, and not be used by them in the fulfillment of the trusts in this my will provided, nor in making improvements, as mentioned in the foregoing provision of this my will, it is my wish, and I direct that my said trustees invest the same, either in the securities of the United States of America, or of the State of Illinois, or of the County of Cook, or of the City of Chicago, or in loans secured by bond and mortgage on good, improved unincumbered real estate in the City of Chicago." (Abst., side p. 30.) This provision covers the case of accumulations, and directs how they shall be invested.

That this provision was intended to cover the case of accumulations, is made still more apparent when taken in connection with the following clause of the will: "In case of the death of both of my said daughters, without lawful issue, it is my will that thereafter the portion of my estate, both principal and interest, which would have belonged to them, respectively, in case they or either of them had survived, shall revert to and become a part of my estate." (Abst., side p. 25.) The clause in reference to investments is the natural supplement to this.

The counsel for the appellees lay great stress on the fact that, if there is to be no distribution till the death of the wife, the ulterior devisees will suffer great inconvenience. But as they must have suffered the same inconvenience if the wife had taken under the will, and the testator must have intended they should so suffer, their inconvenience is not an argument in favor of a distribution before the death of the

wife, when she takes under the statute. Besides, though these present claimants may suffer inconvenience, those who will be entitled to this property on the death of the wife may be greatly benefited by the delay.

The argument from inconvenience* is of no avail here. The only question is, what has the testator provided? It was perfectly competent for him to fix the period of distribution upon the termination of three lives, and with the wisdom or unwisdom of that provision the court has nothing to do.

Rhoades v. Rhoades, 43 Ill., 239, 254.

In the case of *Rhoades v. Rhoades*, the inconvenience was much greater than in the present one, for there the testator devised his property to trustees to accumulate for fifteen years, and then to be divided among his children. But it was held that the property could not be distributed till the expiration of the fifteen years.

II.

IS THE REMAINDER TO THE ULTERIOR DEVISEES VESTED, OR CONTINGENT?

It is claimed that, if the renunciation of the widow does not affect the will, the contingent estate of the devisees in remainder became vested on the death of the daughters, without issue, and possession was merely postponed to the death of the widow.

When, then, does the contingency in this case cease? There was a double contingency—the uncertainty of an event—the death of the daughters without issue; and the uncertainty as to the persons who would take—who would be the surviving descendants at the termination of three lives. Till

the daughters died, it was uncertain whether any of these descendants would take. Till the termination of three lives, it was uncertain which of the descendants would take.

Whether the estate of the ulterior devisees is vested, or contingent, depends upon the construction to be given to the term surviving descendants.

Looking at the language of this will, it is clear that the term, surviving descendants, refers to the period of distribution, which is fixed at the termination of three lives.

Is there any hard and fast rule of law which requires a different interpretation to be given to these words? So far is this from being the case, that it is now a settled canon of interpretation, that the term, survivors, refers to the period of distribution, unless there is a clearly expressed intention of the testator to the contrary.

Cripps v. Wolcott, 4 Madd, 11.

In re Gregson's Trust Estate, 2 DeG., J. and S., 428.

Marriott v. Abell, 7 L. R. Eq., 478.

2 Jarman on Wills, 428, (462).

Ridgeway v. Underwood, 67 Ills., 419.

Jennings v. Jennings, 44 Ills., 488.

But it is insisted that, on the death of the daughters, without issue, the remainder to the ulterior devisees became vested, because "they then had a present capacity to take possession, had the possession then been vacant." In support of this view, the following passage from FEARNE, is quoted: "The present capacity of taking effect in possession, if the possession were to become vacant, and not the certainty that the possession will become vacant before the estate limited in remainder determines, universally distinguishes a vested remainder from one that is contingent." But this definition, or description, is applicable only to one class of contingent remainders —

those limited upon an uncertain *event*, and not to those limited to an uncertain *person*. This was pointed out many years ago, in an article in the London Law Magazine, Vol. 1, page 120. The language of the reviewer on this point, is as follows:

“ The logical groundwork of the Essay on Contingent
 “ Remainders, even to the definitions and primary classification of the topics, we must, however, presume to question. We cannot but think that its author was somewhat hasty in the assumption of his premises. For example, he defines a contingent remainder to be ‘ a
 “ ‘ remainder limited so as to depend on an event or condition, which may never happen or be performed, or
 “ ‘ which may not happen or be performed till after the determination of the preceding estate.’ But a little reflection will show that this definition does not comprise
 “ *remainders contingent merely on account of the person*, as
 “ in a limitation to two for life, remainder to the survivor of them; where there is *no* contingent *event* or *condition*,
 “ but a present capacity in the remainder to take effect in possession, whenever the particular estate determines by the death of the first of them. We would, accordingly,
 “ define a contingent remainder to be a remainder which is limited to a person who is not ascertainable at the time of the limitation, or which is deferred for its vesting, or taking effect in interest, to an event which may not happen till after the determination of the particular estate.”

The counsel for the appellees, and the presiding judge in the court below, in repeating the words of Fearne, seem to have got befogged, and to have lost sight of the fact that when the contingent event was removed, by the death of the daughters without issue, there still remained the contingency as to the persons who were to take. But if, as the counsel for the appellees claim, upon the death of the daughters without issue, the remainder to the testator's collateral relatives became vested, and the distribution was merely postponed to the death of the wife, why were

the collateral relatives not permitted to receive any portion of the income that the daughters would have been entitled to had they survived? As we have seen, the testator, instead of giving any portion of it to his collateral relatives, directs that it shall form a part of the mass of his estate, and be invested as specified in the will. This provision is entirely inconsistent with the theory of the appellees, but is in perfect harmony with, and is completely explained by, the theory that the gift to the collateral relatives was a gift to a contingent class, who could not be ascertained till the death of the wife, in case she outlived the daughters.

III.

THE INTENTION OF THE TESTATOR.

A careful examination of this will shows that the testator kept certain things distinctly in view. In the first place, his leading and paramount intention was to provide for his own immediate family. After making adequate provision for his wife, all the rest of his great estate, with the exception of a few insignificant bequests to collateral relatives, goes to his children and their issue. His desire is that his lineal descendants shall have his entire property. Nothing is taken from them for public or private charity, or to aid collateral relatives.

In the next place, it is his purpose that his property shall be kept together during the lives of his wife and his daughters. With the exception of a gift of twenty-five thousand dollars to each of his daughters on attaining twenty-five years of age, or on marriage, he gives to his daughters only the income of his estate; and if the wife outlives the daughters, until her death, the issue of the

daughters are to receive only the income. His object in thus postponing the distribution of his property was very clear. The bulk of his property consisted of real estate in the City of Chicago, and it is evident that he had great faith in the prospective value of Chicago real estate, and believed that it would be for the interest of his family to keep his property in the hands of trustees for improvement during the lives of his wife and daughters. He also manifested an uncommon degree of confidence in the sagacity, honesty, and business ability of his trustees. No bonds were required of them; they were to select their own successors; they were to have the complete control of all his property, and were especially charged with making permanent improvements on certain lots reserved from sale. As the annuity to his wife would be a charge on only a small portion of his estate, from a tenth to a twentieth, he could have had no motive in postponing till the death of his wife the distribution of his property among his grandchildren after the death of his daughters, except the desire to have it reap the benefit of time and skillful management.

These, then, were the two controlling motives which animated the testator—to secure his property to his lineal descendants, and to keep his property together during the lives of his wife and daughters, that is, as he presumed it would be, for the life-time of a generation, that his estate might have the benefit of the prospective increase in the value of Chicago property, during that time, and of the judicious management of the skillful business men to whom he intrusted it.

In the next place, in providing for the disposition of his property in case his daughters died without issue, he shows the same desire that his property should be kept together during the three lives. As one-half of it was to go to a great public charity, it was natural that he should desire that the amount so given should be as large as possible. As to the half given to his collateral relatives, it

is not presumable that he would desire to have it distributed among them sooner than it would have been among his grandchildren, and there is nothing in the language of the will that indicates such a desire. It is expressly provided that the property is not to be distributed till the termination of the three lives; until distribution, no part of the income, which would have been received by the daughters, is to go to the collateral relatives; upon the death of the daughters without issue, the portion of the estate, "*both principal and interest*," which would have belonged to them, goes into the mass of the estate, and is to be invested in the securities named in the will; the collateral relatives are not provided for individually, but only as a class, and that class is the surviving descendants on the termination of three lives.

If, then, we have read aright the intention of the testator, the doctrine of the acceleration of remainders, which is the main reliance of the appellees, cannot be invoked in this case; for, as we have seen, that doctrine is not only subordinate to the intention of the testator, but is itself based on the intention, or what is at least presumed to be the intention, of the testator.

But if this intention were not as clearly expressed as we think it is, the doctrine of acceleration would still be inapplicable, because the property given to the wife for life is only a part, and a very small part, of the property given to the ulterior devisees, and because the gift to the collateral relatives is a gift to those members of a class surviving at the death of a certain person, and until that death occurs, it cannot be ascertained who will take.

BOUTELL & WATERMAN,

OF COUNSEL.



CENTRAL GRAND DI

JANUARY 1

ELIPHALET W. BLATCH

OR

HENRY W. NEWBERG

APPEAL FROM CIRCUIT COURT OF

BRIEF FOR APPELL

Filed

BOUTELL & WATER

Of Counsel

SUPREME COURT OF ILLINOIS,

CENTRAL GRAND DIVISION,

JANUARY TERM, A. D. 1878.

ELIPHALET W. BLATCHFORD and WILLIAM R. BRADLEY,

Trustees under the Will of WALTER L. NEWBERRY, Deceased,
and JULIA BUTLER NEWBERRY,

vs.
HENRY W. NEWBERRY, ET AL.

ARGUMENT OF EDWARD S. ISHAM,

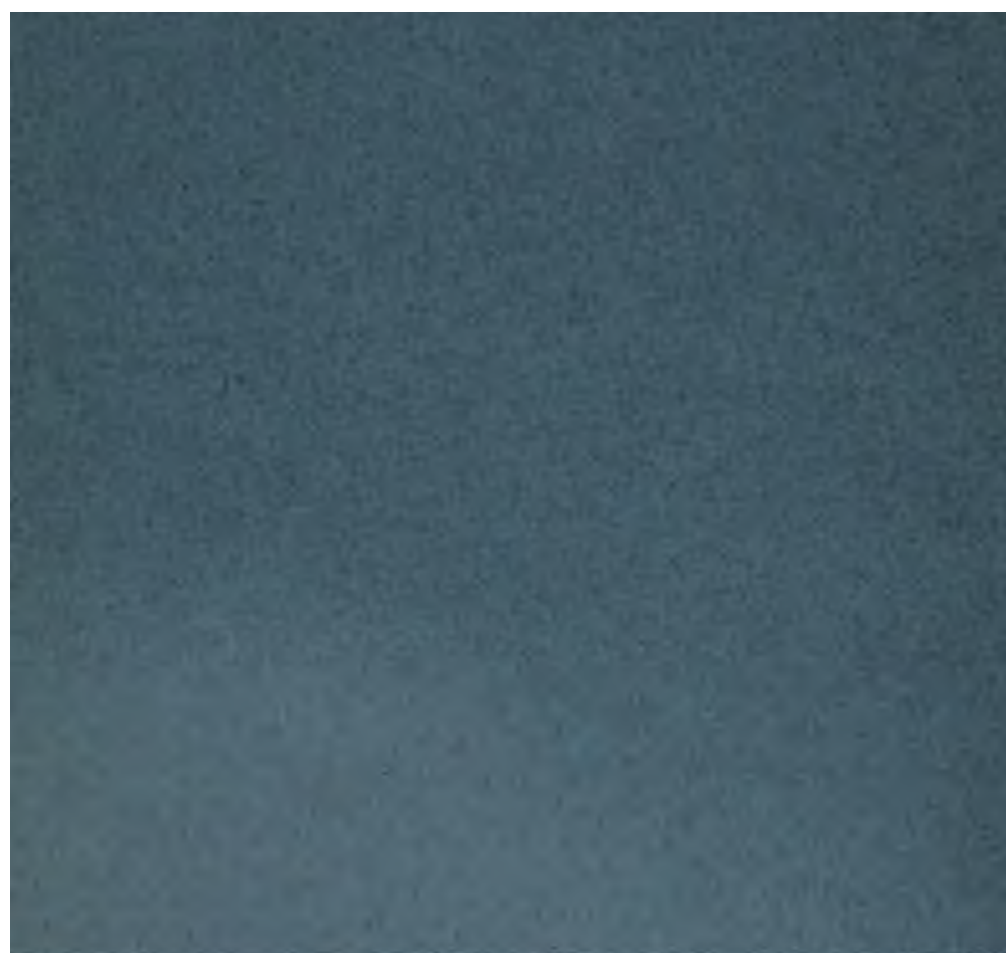
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ARGUMENT.

The questions of construction presented arise under certain clauses of the will of WALTER L. NEWBERRY, deceased.

The whole estate is devised to trustees, to be held upon the general trusts declared in the will until its distribution by them to the persons ultimately entitled; and the will contains careful directions governing during all this period the administration of the estate and its income. Through the instrumentality of these trustees, the scheme of the will involves two alternative dispositions of this property. The first is of the whole estate to the line of descent in the testator's own family,—to his two daughters and their issue; the other is, upon the extinction of the testator's own family, by a distribution of one-half to descendants of his brothers and sisters, and the application of the other half to a public use.

The clauses in question are chiefly the following:

“ In case of the death of both of my said daughters, without lawful
“ issue, it is my will that *thereafter* the portion of my estate, both principal and interest, which would have belonged to them respectively, in
“ case they or either of them had survived, shall revert to and become a
“ part of my estate. And it is my will, and I direct that in the case
“ of each and every bequest, and of every instance in which I have
“ directed my trustees to pay over money to any person or persons
“ whomsoever, if the person or persons to whom or for whose benefit
“ I have made such bequests, or directed money to be paid as aforesaid, shall have deceased, or from any cause be incapable of taking,
“ then the amount so bequeathed, or so directed to be paid over,
“ shall revert to and become a part of my estate, unless I have otherwise specifically directed.” (*Abstract, p. 15.*)

“ In case of the death of both of my said daughters, without leaving
 “ lawful issue, then *immediately after the decease of my wife*, if she survive
 “ my said daughters ; but if not, then immediately after the decease
 “ of the last surviving one of my said daughters, my said trustees shall
 “ divide my estate into two equal shares, my said trustees being the sole
 “ judges of the equality and correctness of such division, and shall at
 “ once proceed to distribute one of such shares among the lawful sur-
 “ viving descendants of my own brothers and sisters, such descend-
 “ ants taking *per stirpes* and not *per capita*.

“ The other share of my estate shall be applied by my said trustees,
 “ as soon as the same can consistently be done, to the founding of a
 “ FREE PUBLIC LIBRARY, to be located in that portion of the City of
 “ Chicago, now known as ‘ The North Division.’ ” (*Abstract, p. 17.*)

The will tendered the widow the testator's homestead, and an annuity of \$10,000 upon condition, that she would accept this provision in lieu of her dower and other rights in the estate. She declined to accept it, and took her statutory estate, which she still holds. Both daughters have died, leaving no issue. The widow of the testator *is still living*; she is not dead. In the event that has happened, therefore, the estate stands devised for distribution after the death of Mrs. NEWBERRY.

The bill is filed by certain descendants of testator's brothers and sister, living at the death of the last daughter, JULIA NEWBERRY, who died at Rome, Italy, on the 4th day of April, 1876; and they claim that the widow having declined the testamentary provision offered in exchange for her statutory dower estate, they are become the ascertained donees under this will, and ask for immediate distribution to them.

It is said in the opinion given in the circuit court:

“ The question now to be determined is, *can* there be, *now*, during
 “ the lifetime of Mrs. NEWBERRY, a legal division of the estate by the
 “ trustees, one-half to the descendants of NEWBERRY's brothers and
 “ sisters, and the other half to the public library? The trustees
 “ have been advised by counsel that they *cannot* now legally divide
 “ and distribute the estate, and *solely for this reason* oppose the claim
 “ of complainants.”

There seems to be in this form of statement, in which

the italics are our own, an implication probably not intended, but which we wish to disclaim at the outset. That the trustees desire to do their duty here is true; and that, if these orators are correct in their construction, the trustees will distribute the estate to them as willingly as to any one, is certainly true. But it would be an error to suppose that they are exploring for some plausible pretext for doing so. They are not willing to *concur* in any attempt to explain away the clear phrases of the will, nor in any subtle evasion of the *actual* intention of Mr. NEWBERRY. Their own convictions of his *actual* intent agree with what they are advised is the intent indicated by what he has said; and they seek to know what *ought* to be done in the execution of his purposes, and not what *can* be done with color of law, to effectuate the claim of the complainants.

One half of this estate is to be distributed to some persons at some time. The cardinal questions, therefore, are:

To whom is it to be distributed?

At what time is it to be distributed?

Upon these questions some things are ascertained by common consent:

The property is given to *some* descendants of the testator's brothers and sister ;

It is given among such descendants as may be "surviving" at *some* period subsequent to the death of the testator;

It is given to such "surviving" descendants *per stirpes*, and so only to such of the survivors at that period as, being then the oldest in generations, shall represent the several *stirpes* of the testator's brothers or sister from whom they are descended.

The gift, therefore, is to a *class* of "surviving" descendants, and the class is to be ascertained at and by the arrival of that period. It is to consist of such descendants as may be then surviving and *in esse*, to take *per stirpes* at the division.

Until the class is thus ascertained, the possible members of it are continually changing. One and another die and pass out

of this possibility; and from time to time some are born and come within it. So the constitution of the class was at the outset uncertain, and must remain so until the arrival of the period by which it is to be fixed, and the persons determined to whom the gift is made.

If that period has arrived, then the donees are ascertained. If it has not arrived, then the donees are not yet ascertained, and the class remains uncertain.

The provision of the will in the case that has happened is this:

“ In case of the death of both of my said daughters without leaving lawful issue, then immediately after the *decease of my wife*, * * “ my said trustees shall divide my estate into two equal shares, “ * * and shall at once proceed to distribute one of such shares “ among the lawful surviving descendants of my own brothers and “ sisters, such descendants to take *per stirpes* and not *per capita*.”

Under this plain language we say the time of distribution is appointed to be “ immediately after the *decease* ” of Mrs. NEWBERRY; that the will contains no gift apart from this direction to distribute; that this direction is to distribute to a class of persons answering a particular description; that this class must be uncertain till the time of distribution arrives to determine it and ascertain the donees; that, therefore, no estate under such a gift can vest in interest any more than in possession until the donees are thus ascertained; that the gift is one to vest in interest and possession at the same time, namely, at the time of distribution. We are of opinion not merely that no contrary intent appears in the will, but that this view is fortified by the scheme of the testator, by his relations to the claimants, and by the express phrases of his will.

This is the plain meaning of the words of the testator, unless some of these are to be taken as words of art of our profession, and used by him in a technical sense. Certainly this must be taken to be their meaning until reason is shown why they must be taken in some other than their apparent and usual sense.

On the other hand, the case of the appellees rests upon the ground that the gift by the will is to such descendants as should

be surviving at the death of the last daughter without issue, and that accordingly the estate vested in interest in them at the death of JULIA NEWBERRY; they agree that if Mrs. NEWBERRY, the widow, had taken the testamentary interest offered her in lieu of her dower, the estate, even if vested in interest, *could not have been distributed* until after her decease, but they claim that the words, "immediately after the *decease* of my wife," are in legal effect the equivalent of the words, "immediately after the *failure in any way of the testamentary estate* which I have offered her in exchange for her "dower estate which she has in my property;" that the widow, having elected to retain her statutory estate rather than exchange it for the testamentary provision offered her, the gift to these descendants, already as they claim vested in interest, was *accelerated*, and that they are entitled to compel a division now of the whole estate.

I may address myself, therefore, to the question : *Who are the donees* in this devise ? Of course, unless these descendants, who were surviving at the death of JULIA NEWBERRY, *are the donees*, no interest has vested in them, to be either accelerated or postponed. I think these other questions of contingent or vested estates, and of acceleration of remainders are subordinate to and are involved in this. No estate can be vested in one who is not the donee of it. When we have ascertained the persons to whom any interest is given at all, then we may inquire whether *that* interest is vested or contingent, or whether *it* may be accelerated.

The gift here is to a stirpal class *described* as "lawful surviving descendants." This class is to be determined by the event or time to which the word *surviving* relates; for the persons to whom the limitation over is made, are described as descendants "surviving" *somebody*, or at *some time*. We say it relates, not to the death of JULIA NEWBERRY, but to the *time of distribution* appointed by the will, *whenever that time may be*.

This question has usually arisen in cases where, in gifts to survivors of a class, the controversy has been whether the reference

of words of survivorship should be to the death of the testator, or to some subsequent period. But the rule is now established, that if a time can be found in the will when the actual payment or delivery of the fund or property is directed to be made, a period when the donee is to get by distribution or payment the actual *possession* or enjoyment of the gift, *survivorship* is naturally referable to *that period*, and such is the rule of the court, unless a reference to some other period is affirmatively compelled by the language of the will. Sometimes this period of division is concurrent with the death of a tenant for life, but not always. Whenever it occurs, it marks the reference of the word "survivors."

In support of the rule thus stated, we submit to the court the most authoritative adjudicated cases:

In *Edwards v. Edwards*, 15 B., 357, there was a gift by will of freehold and leaseholds to A, *durante viduitate*, and then to B absolutely, with a gift over to B's brother and sister, if he died leaving no children. B survived A, the first tenant, but *afterwards* died, leaving no children. The devisees over then claimed the estate. It was held that as he survived the period of actual payment or distribution, and at *that time* the contingency of his death without children had not occurred, the estate became absolute in him, and the contingency of death without children must be referred to that event. Sir JOHN ROMILLY said:

"If I am right in the view which I take of the principle of these cases, the effect is, as it appears to me, that *the rule of the court is*, that the contingency, or the event which the testator speaks of as a contingency, is *always referable* to the period of payment or distribution, *except in the single case* where there is a simple gift to A, and if he shall die without leaving issue, to B, in which case, it *cannot* be referred to any period of distribution."

Now, the case before this court is not that "single case where there is a simple gift to A, and, if he die without issue, to B, in which case it *cannot* be referred to any period of division." One of the fatal fallacies in the appellees' theory lies exactly here. They discuss this case as if there were here a simple gift over by the testator upon the death of his daughter without

issue, or upon the death of his widow, to HENRY W. NEWBERRY and WALTER C. NEWBERRY, and the others. But that is not so. The foundation of their argument is a false premise. The only gift over is to a *class of survivors*, and the members of that class can be ascertained only by the event or period to which the word survivors relates, and which the donees must survive.

In *Knight v. Poole*, 32 B., 548, there was a bequest to A, and at his death to B, and at "her decease" to be divided among four named persons, or "as many of them as may be living." The question was at what time the persons to take must be living, for some survived one of the tenants for life, and died before the other. Sir JOHN ROMILLY said:

"I am clear that no person took except those who *survived the period of division*. There is a gift of property to A for life, and at his death, (with certain exceptions) to B, and at her decease it is to be divided between the *surviving* brothers and sisters who are married. The case of *Cripps v. Wolcott* clearly applies, and *only those who survived both A and B could take*. The property is to be 'divided,' and *nobody was to take who was not living at the period of division*." * * "I am of opinion that the words in question have relation to the *period of division*, and that the plaintiff takes no interest in the property."

In *Stevenson v. Gullan*, 18 B., 590, there were bequests to two for their lives, and from and after their decease to their "surviving children." One of the tenants for life had seven children living at the death of the testatrix; six were living at his own death, but only four were living at the death of the other tenant for life. The question was to what period the word "surviving" must be referred. Sir JOHN ROMILLY said:

"The survivorship must be referred to the death of the last of the tenants for life, *which is the period of distribution*. Where the income of a fund is given to tenants for life, and there is a gift over after their deaths to children or a *class of persons surviving*, it is a gift to those only *who are then surviving*."

In *Hawes v. Hawes*, 1 Ves. Sr., 12, there was a devise of land to four equally, with benefit of survivorship. It was claimed that survivorship referred to the death of the testator. Lord HARDWICKE said:

“ The second construction attempted is, that these words mean a “ surviving the testator. * * This, certainly, is not a natural way “ of explaining the testator’s intent ; as one seldom provides by will “ for contingencies that are to happen in his life ; but *if no other* “ *reasonable construction can be found, the court might resort to this.*”

It will be seen, therefore, that this proposition, that survivorship will not be referred to the death of the testator if any other period can be found to which it can be referred, has followed down the whole course of decision in the cases which have finally settled this rule of law conclusively in England.

In *Carver v. Burgess*, 18 B., 541, the testator gave to each of his four daughters, naming them, the interest of five thousand pounds for life, “ and if they have any children, the principal to be *divided* between them after her death, if they should “ attain the age of twenty-one years; if not, it is to be *divided* “ among her surviving sisters, share and share alike.” One daughter, Amelia, married and died, leaving two children. One of these grandchildren died in infancy; the other, a daughter, married and left a child, but died under twenty-one. And the question was as to the ultimate disposition of the five thousand pounds, which would have been taken by Amelia’s daughter if she had reached twenty-one. A question first arose upon the reference of the words, “attain the age of twenty-one years,” and it was held that they referred to the grandchildren, and not to the daughters of the testator. Then the question was upon the reference of the word “surviving” in the direction for division “among her surviving sisters.” It will be observed that if the granddaughter had lived until twenty-one, the principal of the five thousand pounds would have become absolutely hers ; but dying under twenty-one, the question was whether the limitations over to the “surviving sisters” of her mother, Amelia, meant sisters surviving at the death of the testator or at that of the granddaughter, *which was the period of division* and, of course, the *period when the legacy actually went over* to the surviving sisters. The court will observe, that in this case, as in all the others, this was not merely the period when it became certain that the gift *would* go over to survivors.

but was the period when it *actually went* over to survivors, and was the time of *actual payment or distribution* of the fund; so that the point established by the case is that which is established by all the others; that where there is a period of distribution appointed, of actual payment and transfer of the fund, that is the period which draws to itself, whenever it occurs, the reference of the word "surviving." The persons entitled as "surviving" in that case, therefore, were held to be those surviving at the death of the granddaughter, which was the *actual period of distribution or payment*.

SIR JOHN ROMILLY said, and we ask special attention to this case :

"If the gift over is to take effect upon grandchildren dying under twenty-one, which is the event which has occurred, the next question which arises is, who are to take under the words 'her surviving sisters.' It is to be divided among her surviving sisters; the obvious meaning of which is her sisters surviving at the time when the legacy is to go over, or *the period of distribution*. The argument that 'surviving' is superfluous, and that the gift over is to all the 'other' sisters, would have the effect not only of changing the meaning of the testator, but of doing so *in violation of the useful and convenient rule*, that the period to which *survivorship* refers, or when the *class is to be ascertained*, is the period of *distribution*, and which rule was acted upon in *Cripps v. Wolcott*, *McDonald v. Bryce*, and other cases, and was laid down in *Edwards v. Edwards* as a general rule. The convenience of this rule arises from this; that it explains what in almost every instance, is the clear and manifest intention of the testator."

This decision, therefore, is by the same judge who made the decisions in the preceding cases cited here, and in this, as in all the others, the decision is put expressly on the ground that survivorship is to be referred to the time of distribution or enjoyment, *whenever* that is *appointed to be by the will*; and the gift is to those only who are survivors at that time. It is placed expressly upon the rule in *Cripps v. Wolcott*, and the other cases cited already.

In *Hearn v. Baker*, 2 K. & J., 386, Sir W. PAGE WOOD said :

“ In the will in this case, I find nothing which can make any substantial difference in the construction. There is, first, a gift of all the testator's property to his wife for life, and then the will contains a gift, after her death, to the testator's five cousins by name, or the ‘ survivors of them.’ I think that the word ‘ survivors,’ must be taken to include the case of one of the legatees only surviving ; and I cannot distinguish this case, in substance, from those concerning which the rule was laid down in *Cripps v. Wolcott*, which refers the words of survivorship to the period of the division of the fund.”

In *Neathway v. Reed*, 3 DeGex, M. & G, 22, Lord Justice KNIGHT BRUCE said :

“ The gift in question is in these words : ‘ I also give and bequeath unto my sister, Catherine Neathway, the interest of my funded property (whatsoever may be remaining after the legacies are paid.) for and during her natural life, and after her decease such property to be equally divided between her surviving children.’ Unless there is something in the context to control the meaning of these words, the children referred to must be taken to be those who were living at the death of Catherine Neathway.”

This rule was settled as to personal property before it was settled as a rule governing devises of realty. There seems to have been a notion that in the courts of law the rule was to refer survivorship to the death of the testator, and that the cases which held it referable to the period of actual possession and enjoyment of the estate were rather taken out of the rule by special circumstances, than founded on the rule itself.

But in the case of *Cripps v. Wolcott*, 4 Madd., 11, in 1819, Sir JOHN LEACH held that there was no such rule ; that on the contrary, by the rule, “ surviving ” meant surviving at the time of the distribution and possession of the estate unless a contrary intent was specially found in the will. Even after *Cripps v. Wolcott* had, as JARMAN says, 2 Jar. Wills, 678, completed the “ overthrow ” of a rule, the foundations of which had been “ gradually sapped ” before, some cases held otherwise as to devises of land. The principal of these is *Doc d. Long v. Prigg*, 8 B. & C., 231. For a considerable time an issue existed over these two cases and

the rules they respectively represented. *Doe v. Prigg* was followed in some instances; but this controversy was long ago silenced. The case has been overruled; and the rule has been settled, that in devises of land as well as in bequests of personal estate to survivors of a class, the point of time to which survivorship relates is the time of the actual transfer, distribution, enjoyment of the fund or estate.

There are some American cases, such as *Moore v. Lyons*, 25 Wend., 119, which are of old date, and having been decided expressly upon the strength of *Doe v. Prigg*, of course fall with it. The rule they represent, if it ever existed, which is denied by the authorities, certainly exists no longer.

In *Spurrell v. Spurrell*, 11 Hare, 54, the testatrix, by will, gave "all her property whatsoever" to her mother for life, and after a legacy of two hundred pounds, "then the residue of my property to be equally divided between my surviving brothers and sisters, share and share alike."

Sir W. PAGE WOOD said:

"As I think the defendant is entitled to succeed in his contest on the meaning of the term 'surviving,' it is not necessary that I should enter into the consideration of the several points.

"I think the word 'surviving' in this will, as applied to the brothers and sisters of the testatrix must mean 'surviving' at the time of the distribution of the fund. The word *was capable of receiving four different constructions*, which were suggested in the argument.

"* * * I think the view taken in *Cripps v. Wolcott* was extremely just; and, although that has been said to be a bold decision, yet many cases which preceded it had taken the same view. *The only difference seems* to be that before the case of *Cripps v. Wolcott* there had been a general notion that the rule was that the word 'survive' pointed to the death of the testator, but that particular cases might be taken out of that general rule by exceptions; and when at last the exceptions grew up to be numerous, the boldness of the decision consisted in holding *that there was no such general rule*. I think it better that the court should hold that there is no rule referring the time of survivorship of the legatee to the death of the testator. The natural inference is rather the other way, and the court must ascertain the true meaning of the testator after looking

" at every portion of his will. * * * It seems to me that the period to which the word 'surviving' refers, is the period when the fund came to be distributed—when the event has happened which is to guide the executors in making distribution."

In *Wordsworth v. Wood*, 1 H. L., 129, the testator, after various bequests, gave certain estates to his wife for life, but in trust at her death, for his then surviving children, share and share alike, "independent of the *rental* of his said estates which he gave and bequeathed to *his surviving female children*," to be paid to them as he directed. Question arose as to the reference of the word "surviving," in the second clause, disposing of the *rentals*. A point was made that the words "then surviving," in the first clause, supplied a reference for the word "surviving" in the second clause. The case was argued, however, before the House of Lords, as it had been argued below before the Vice Chancellor and before the Lord Chancellor, upon the cases of *Cripps v. Wolcott*, and *Doe dem. Long v. Prigg*; and independent of the words in the former clause, and going upon the effect of the general rule governing the construction of the word "surviving," Lord BROUGHAM, delivering the leading opinion in the House of Lords, said:

" Then I think that upon all principles—not only the principles uniformly adopted in such cases, not only the principles upon which the courts have always proceeded in dealing with such questions, but upon the plain principles of common sense—the last conclusion which you are apt to come to in considering *what a testator meant when he talked of surviving* persons, of *surviving* children, or of other *surviving* parties; the last construction which you adopt, and which you only come to when there is something that drives you to it in the words, is that he meant the survivorship to refer to the period of his own decease, because every gift to a legatee, whether a child or other person, assumes *ex vi termini*, that the party to take, is a party surviving the giver of the gift, the testator." * * *

" I, therefore, take it to be clear, that we are not without the most plain and manifest necessity, to be driven to consider that the testator, when he uses the words, 'surviving children,' means children surviving himself. If, indeed, there is no other period pointed out, either in that part of his will or in any other part of it, to which the word 'surviving' can be referred; if it is clear that you can find no

“ other period of time to which that word ‘surviving,’ or other words indicating survivorship, can refer, then, going upon the common principle of giving effect to all the words which a man uses in his instrument, you must, whether you will or no, be driven to that conclusion ; but, undoubtedly, it is not a natural one, and it is not one to which we should willingly come. * * * A case was referred to of *Doe v. Prigg*, and the reasons given by the very learned judge who pronounced that decision, do not appear very clearly to support it. I believe it is pretty certain that the reasons have not given satisfaction in Westminster Hall. I do not say that the argument on the part of the appellants here cannot stand without the case of *Doe v. Prigg*, nevertheless, both here and in the court below, that case, it must be observed, was very much relied upon for the construction against the demurrer, which was allowed.”

This case of *Wordsworth v. Wood* is recognized to be an authority upon the point discussed by Lord BROUGHAM in the leading opinion. This is illustrated in *Neathway v. Reed*, and in *Gregson’s Trust Estate*, presently to be cited, where Lord Justice TURNER used this language: “ And what is more important, the House of Lords in *Wordsworth v. Wood*, pointedly disapproved of the case of *Doe v. Prigg*.”

In *Young v. Robertson*, 8 Jur. N. S., 825, this question arose directly in the House of Lords. The testator directed his estate, real and personal, to be divided equally among his grand-nephews and grandnieces. The case was argued upon the authority of *Wordsworth v. Wood*, *Cripps v. Wolcott*, and other cases, and the Lord Chancellor said:

“ My Lords, I think upon a matter of this kind, it is desirable, if possible, to consider, in the first place, what are the reasonable, and, I may say, the established rules of construction. I refer to the jurisprudence of both England and Scotland ; for although we are here to construe this settlement entirely with reference to Scotch rules, yet it is desirable, no doubt, to ascertain that in the construction of ordinary words in the English language, there is no difference between the view which is taken of them in the one country and in the other. Now, I apprehend it to be a settled rule of construction, and in itself a very reasonable and natural rule, that words of survivorship occurring in a settlement (that is, a will), should be referred to the period appointed by that settlement for the payment or distribution of the sub-

"fect matter of the gift. *That undoubtedly is the rule that is now*
 "*finally established in this country; and I apprehend that it has*
 "been ascertained from the authorities which have been cited
 "at the bar, that that rule was established in Scotland, in fact
 "*even before it was finally recognised and settled in this country.*" * * *
 "The result, therefore, is, that in the event of such a gift, the *survi-*
 "*vors are to be ascertained in like manner, by a reference to the period*
 "*of payment or of distribution, namely, the expiration of the life es-*
 "*tate.* Now, these are, as I have already observed, in my judgment
 "natural and reasonable rules of interpretation." * * * * "Now,
 "the natural order of things which is indicated is this—that at the
 "death of the tenant for life, *the duty of the trustees in the matter of*
 "*division arises. They are then to convene and call together the per-*
 "*sons who are to be entitled to share.* But the words in question—
 "namely, the clause beginning with the word 'declaring'—are part
 "of the words which are *descriptive of the objects to take;* and the
 "trustees, therefore, are called upon *at the time of distribution, to as-*
 "*certain what those words mean, and to give effect to them.* But as
 "they are *words of futurity,* the contingency that is contained in
 "those words is, I apprehend, by natural consequence, a contingency
 "of futurity, that must be held to cover the whole period of time
 "that will elapse before the time when the trustees are called upon to
 "determine who are entitled under these words. *They are to ascertain*
 "*the objects at the death of the tenant for life, and they are then to give a*
 "*meaning to these particular words.*"

Lord CRANWORTH said:

"I take it that *the rule is well established upon the authorities as well*
 "*as upon principle,* both in Scotland and in England, that where
 "there is a clause of survivorship, *prima facie* survivorship *means the*
 "*time at which the property to be divided comes into enjoyment—that is*
 "to say, if there be no previous life estate, at the death of the testa-
 "tor; if there be a previous life estate, then at the termination of that
 "life estate."

In the case of *Gregson's Estate*, 2 De G., J. & G., 428, the
 application of the rule to devises of real estate, and the authority
 of the case of *Doe v. Prigg* came directly in issue in the Court
 of Appeal in Chancery, and there the authority of the rule in
Cripps v. Wolcott, as controlling a devise of real estate, was
 settled by the distinctive overruling of *Doe v. Prigg*. A tes-
 tator gave real estate to his wife for life and directed that after

her death it should be divided, share and share alike, amongst twelve persons mentioned by name, "or the survivors of them." All those persons survived the testator, but some of them died before the widow. It was *held* that the rule laid down in *Cripps v. Wolcott* applied to real as well as personal estate, and that the estate belonged to such of the twelve persons as survived the widow.

The Lord Justice KNIGHT BRUCE said :

" But it is said against the appellants that the rules of English law concerning real estate, and especially concerning contingent remainders in real estate, as those rules existed before and when the will was made, render it incumbent on a court to lean in favor of ascribing to the testator an intention to give to the twelve devisees in remainder respectively, if surviving him, interests vested at his death, and not as to any of them contingent interests, or interests liable to be divested after his death. And in support of this proposition, *Doe v. Prigg*, and many other authorities have been cited. It has not, however, nor could reasonably have been, denied that the intention ascribed to the testator by the appellants was an intention which he had a right by law to entertain and effectuate if he thought fit, or that if he had inserted in the will such a clause as this : ' It is to be observed that *by the word survivors I mean such, and only such*, of the twelve devisees in remainder herein named *as shall out-live both myself and my wife*,' the appellants would have been entitled to what they seek. And my opinion is, that the will, in its actual state, as plainly exhibits and declares the testator's meaning and intention in using the word ' survivors,' to have been what the appellants contend, as if such a clause as I have just suggested had been inserted in it. The testator had a right to say, and has, I think, said, that those of the twelve who should die, living his wife, *should be excluded in favor of those of the twelve who should survive both her and the testator himself*; and if we are contradicting any authority in so holding, I consider that we are not contradicting *Wilson v. Bayley*, or any other authority binding on the court."

The Lord Justice TURNER said, in this same case :

" The terms of the devise have been already stated. The doubt which arises upon it is, to what period did the testator intend the survivorship to be applied, to his own death or to the death of his wife, the tenant for life? I will first consider this point without reference to the authorities. * * * Considering this case, there-

“fore, without reference to the authorities, it seems to me that according to the true construction of this will, the property in question ought to have been held to belong to such only of the devisees in remainder as survived the tenant for life, and that the decision under appeal, if it be supported at all, must be supported, not upon principle, but upon the authorities. It is upon the authorities, indeed, that the Vice-Chancellor has rested his decision.

“How then does the case stand in this point of view? It is now perfectly well settled that in dispositions of personal estate words of survivorship are to be construed as referring to the period of distribution. This is established by *Cripps v. Wolcott*, and a long train of decisions following upon that case, and it was not even attempted to be denied at the bar that this is the state of the law as to personal estate, but it was said that as to real estate the law is otherwise, and that in cases of devises of real estate words of survivorship are to be referred, not to the period of distribution, but to the period of the testator's death, and several cases were referred to in support of this position. The cases on which reliance was placed were *Stringer v. Phillips*, *Rose v. Hill*, *Wilson v. Bayley*, *Garland v. Thomas*, *Edwards v. Symons*, and *Doe v. Prigg*, and they are a fair sample of the many cases in which the same conclusion has been arrived at by the courts of law, for it cannot be denied that the courts of law have, as to real estate, leaned strongly in favor of the vesting at the death of the testator, whilst the courts of equity have, as to personal estate, leaned as strongly to the vesting at the period of division. The cases upon this subject are indeed irreconcilable, and in saying so I am only repeating what has been frequently said by other judges. It is to be observed, however, as I have already said, that the question is one of intention, and that in the great majority of the cases there has been some context in the will which has been held to affect the decision. In *Rose v. Hill*, and *Wilson v. Bayley*, for instance, there were other dispositions in the will which were taken, in the one case in judgment, and in the other in the reasons of appeal, to support the vesting at the death of the testator. In *Stringer v. Phillips* and *Doe v. Prigg*, however, there does not appear to have been any such context, and it was upon these cases, and especially upon the latter of them, the respondents mainly relied; but these cases do not stand unaffected by adverse decisions. In *Buckle v. Fawcett*, a case in which both real and personal estate was involved, the Vice-Chancellor, Sir JAMES WIGRAM, notwithstanding the case of *Doe v. Prigg* was cited, held that the survivorship ought to be referred to the period of division, and in *Taylor v. Beverley*, which, however, was

“a case of personal estate only, my learned brother came to a similar conclusion; and what is more important, the HOUSE OF LORDS, in *Wordsworth v. Wood*, pointedly *disapproved of the case of Doe v. Prigg*. Whether this disapproval was meant to apply generally, or to apply only to survivorship being referred to the death of the testator in the case of a devise to a class, does not indeed appear, and I do not think, therefore, too much reliance ought to be placed upon the dicta in *Wordsworth v. Wood*; but in the subsequent case of *Young v. Robertson* the House of Lords appears to me to have held *very decidedly* that the *general rule must be taken to be* that survivorship is to be referred to the period of distribution. * * *

“Upon the whole, looking to the intention of this testator, which, in my opinion, is the governing point of the case, and *looking also to the state of the authorities*, I cannot but think that *however this case might have been decided in times long gone by*, it ought now to be decided in favor of the appellants, and that the fund in question ought to be divided between *such only* of the devisees in remainder as survived the tenant for life. Our order therefore will be accordingly.”

This decision is, therefore, directly in conflict with *Doe v. Prigg*, and the declaration is explicit that that case, and the others resting upon it, are *not* “*authority binding on the court.*” It is understood and recognized by the English courts that *Doe v. Prigg* is squarely *overruled* by this case, and it is so stated by Vice Chancellor MALINS, in *Marriott v. Abell*, 7 L. R. Eq., 482. He says :

“One sees that if there be a gift either of real or personal estate to one for life, or a limited period, and then a gift to a class, and the ‘survivors or survivor’ of that class, the word ‘survivor’ is *uniformly* referred to the *period of distribution*. That was settled by *Cripps v. Wolcott* with respect to personal estate *and now by Gregson’s Trust Estate*, *OVERRULING Doe v. Prigg*, as to real estate.”

The rule, therefore, is fully settled in England that in gifts to survivors, words of survivorship refer to the period of division of the subject matter of the gift; and in accordance with the cases which have been cited, it is stated by THEOBALD, Cons. of Wills., 358, that :

“The general rule is, that when the survivorship is upon death ~~the~~ *erely*, the time of distribution is the limit of defeasibility. ‘*Sur-*

- “ *ivorship* is to be referred to the *period of division.*’ * * * The same rule applies to realty as to personalty.”

This rule has also been established by the Supreme Court of Illinois. In *Ridgeway v. Underwood*, 67 Ills., 419, this court declared that the rule which considers a gift to survivors simply as applying to objects living at the death of the testator, is confined to those cases in which there is no other period to which such survivorship can be referred, and that where such gift is preceded by a life, or other prior interest, it takes effect in favor of those *who survive the period of distribution, and those only.*

This case passed altogether upon the *rule of construction* which we are discussing, governing the *particular form of the gift*—that is, a gift to the survivors of a class.

Chief Justice LAWRENCE said:

“ The question as to the time when *the testator intended* the right of survivorship should apply, is certainly *one of extreme doubt, and very good reasons may be given for adopting either conclusion.* We have found it very difficult to arrive at any satisfactory decision, as it so often is, when a court is called upon to determine the *actual intention* of a testator, manifested *only in language susceptible of a double interpretation.* We have, however, in regard to this will, arrived, finally, at a different conclusion from that reached by the circuit court. We are of opinion that the date of survivorship must be referred to the period of distribution.

“ We are not informed by this record whether the will was made during the last illness of the testator. However that may be, it is undoubtedly true that most persons, in drawing a will without the aid of experienced professional advice, *assume that the devisees, for whom they are making provision, will survive them,* intending, in case of the death of any of such persons prior to their own, to provide for the new state of affairs by a new will or a codicil. *Hence the reasonableness of the rule laid down by JARMAN as the result of the authorities,* and expressed by him as follows: ‘ In this state of the recent authorities, one scarcely need hesitate to affirm that the rule which reads a gift to survivors, simply as applying to objects living at the death of the testator, is *confined* to those cases in which *there is no other period* to which such survivorship can be referred; and that where such gift is preceded by a life or other prior interest, it takes effect in favor of those *who survive the period of distribution, and those only.*’ 2 Jar. Wills, 462. This rule, *as one of general construction, applies specifically to the present case.*”

The court then states the circumstances of that case, and proceeds:

" Here then applies, with literal exactness, *the rule* expressed by JARMAN. The will *provides for survivorship*. It is *indefinite in its terms* and the RULE SOLVES THE DOUBT by applying the language of the testator to those who survive the period of distribution."

" In the late case of *Marriott v. Abell*, the Vice Chancellor uses the following language: ' All these are cases of intention, and the *rules adopted* by the court have regard *to the probable* intention. One sees that if there be a gift, either of real or personal estate, to one for life, or a limited period, and then a gift to a class, and the survivors or survivor of that class, the word survivor is *uniformly* referred to the *period of distribution*. This was settled by *Cripps v. Wolcott*, with respect to personal estate, and now by *Gregson's Trust Estate*, *overruling Doe v. Prigg*, as to real estate.' "

This rule is now generally established in this country. In *Sinton v. Boyd*, 19 Ohio St., 30, the court said:

" The ancient holdings on this subject have been much modified by more recent decisions. Also the soundness of the distinction, taken between real and personal estate, has been questioned until it has nearly or quite faded away."

The court then cited the case of *Young v. Robertson, supra*, in the House of Lords, and the statement of the rule in that case by the Lord Chancellor, that words of survivorship should be referred to the period "for the payment or distribution of the subject matter of the gift," and then proceeded:

" This *undoubtedly is the general rule recognized in this country*, subject of course to such modifications as the paramount rule, giving effect to the intention of the testator may require."

Such *is the rule* generally recognized in this country.*

* *Hanberry v. Doolittle*, 38 Ill., 206; *Wren v. Hynes, Adm'r*, 2 Metc., (Ky.), 131; *Holcomb v. Lake*, 4 Zab., 686; *Robertson v. Wilson*, 38 N. H., 48; *Haskins v. Tate*, 25 Penn. St., 251; *Lessee of Westbrooke v. Romeyn*, 1 Bald., 202; 2 Wms. on Ex'trs, 1576 (n.) y.; *Stephens v. Evans, Adm'r*, 30 Ind., 47; *Olney v. Hull*, 21 Pick., 315; *Hurlbut v. Emerson et al.*, 16 Mass., 240; *Thomson v. Ludington*, 104 Mass., 193; *Tier v. Pennell*, 1 Edw. Ch., 358; *Teed v. Morton*, 60 N. Y., 506.

In *Buckle v. Fawcett*, 4 Hare, 542, there was, as in the case at bar, a mixed estate of real and personal property, and a devise to trustees to distribute among survivors.

Mr. ROUNDELL PALMER argued that the time for determining survivorship must be the period of distribution of the estate, and cited *Cripps v. Wolcott* and *Wordsworth v. Wood*; that the rule as to personal estate was well settled on that principle, and that, if not equally established as to real estate, yet, that *in the will the intention was clear, as we submit that it is in the present case, that the real and personal estate should go together*; and that the real estate ought, therefore, to follow the personal estate.

Vice Chancellor WIGRAM said:

“ With respect to the *application of one rule of construction to personal, and another to real estate*, in deciding upon the effect of this direction for survivorship, I am unable to understand upon what intelligible principle such a distinction can be founded. I do not, of course, intend to intimate any doubt of the authority of cases, (such, for example, as *Forth v. Chapman*,) in which, in order to preserve and give effect to a plain and undisputed purpose, the courts have construed the same words in different senses in their application to real or personal estate; but I see no analogy between such cases and the case now before me, in which the *only question is, who were the objects of the testator's bounty*, and in which (the objects being ascertained) *they will take both the real and personal estate*.

“ There is not, I believe, any reported case which proceeds on the recognition of a distinction between real and personal estate, *for a purpose like that in judgment*, though it may be true that one construction has been more strictly applied to one species of property than to the other. There is, however, no case in which the distinction is recognized.”

Sir JAMES WIGRAM said, therefore, there was no case where, *in the same estate*, under the same will, for the purposes of the same distribution, one rule had been applied to real estate and another to personal. And as the intent is manifest in this will, that the real and personal estate should go together, the time of distribution should be governed by the settled rule as to personal estate, even if the rule were not, as it is, equally well settled as to realty.

In several cases the precise point has arisen which is now urged by the appellees ; and in them it was insisted, that words of survivorship in a limitation over, should be referred to the time when the prior interest failed, upon the failure of which the limitation over depended. The same claim is made here ; and the circuit court held that the word "surviving," used here as *descriptive* of the persons to take, should be referred to the death of JULIA NEWBERRY when the prior estate failed, upon which failure the limitation over was conditioned.

In *Cambridge v. Rous*, 25 B., 415, questions arose upon the construction of the two wills of Maria and Sarah Van Mierop. By these wills estates were given to Cornelia Cambridge for life, and in case she died leaving no children, or if all of her children died under the age of twenty-seven, then over to seven cousins, naming them, "equally to be divided share and share alike; the share of each who should happen to die to be equally divided among the *survivors*, unless" Anna Maria Peters, one of the cousins, should die leaving issue. In that case her issue was to inherit her share.

Cornelia Cambridge died in 1858 without having had issue, but at her death, the time appointed for distribution of the estate, *all the seven* cousins were dead. Anna Maria Peters had been the survivor of them, having died in 1832, leaving children.

Here, therefore, arose another point of time to which it was claimed the word survivorship referred. The children of Mrs. Peters claimed the whole fund under the gift over, and that as to these seven cousins, the word *survivor* meant, not survivorship at the time of the distribution, but only survivors *inter se*, and that as she survived the other six, her children were entitled through her to the whole fund. But it was held that the word survivors must be referred to the time of the distribution of the fund.

Sir JOHN ROMILLY said :

" With respect to the first argument, that construction is, in my opinion, inconsistent with the authorities on the subject ; it does not point

“ to any period to which the survivorship is to be referred, but simply
 “ assumes that the last survivor is to take the whole ; in fact, it would
 “ simply be this : if they all died before the fund was distributable,
 “ the last survivor would take, which really is a gift of property in joint
 “ tenancy ; but this is inconsistent with the words of the will, and it
 “ would also be at variance with *the whole course of authorities, which*
 “ *point out*, that the only duty of the court is to determine to what pe-
 “ riod the word *survivor* or *survivorship* relates ; and one cannot get
 “ over the difficulty by giving it amongst them as joint tenants. The
 “ question really is, to what period the survivorship points, and I think
 “ it is now settled that the survivorship must be referable to the time
 “ of distribution. *Cripps v. Wolcott* has so decided, and I have al-
 “ ways followed it.

“ The period here is the death of Mrs. Cambridge, and I think that
 “ the survivorship points to that period.”

In *Marriott v. Abell*, 7 Law R. Eq., 478, the testator gave his estate to trustees, to pay the income to Martha Barton, for her life, and *after her decease*, “ *to pay, assign and transfer* ” the capital to *eight persons*—naming them—in equal shares. The will contained an *express direction* that the interests of these eight named persons *should be vested interests from the death of the testator*. It then directed, that in case of the death of any of these persons, before the death of Martha Barton, the share of the one so dying “ *should go and be paid to the survivors or survivor of them, equally.* ” These eight persons all died in the life-time of Martha Barton. She died in 1864, and Hannah Marriott, the last survivor of the eight, died in 1860. Here, then, was a class of eight persons having, each of them, a distinct, vested interest in a fund to be divided at a future time, namely, the death of Martha Barton. But each one’s interest was given over to *survivors* of the class, in case he died before the time of distribution. The representatives of Hannah Marriott claimed that she was entitled, by survivorship, and they through her, to the whole fund. They contended that as each person died, it became then certain that the provision for that person had failed, and that the persons surviving at his death took *then vested interests* in his share ; consequently, they contended that Hannah Marriott, as the last survivor, “ *then had vested in her her own* ” “ *original share, and accrued shares from the others ;* ” and that

her personal representatives were entitled to retain them, though she died in the life-time of Martha Barton, and was not a "survivor" at the time of distribution, capable then of receiving from the trustees. It was claimed, exactly as in *Cambridge v. Rous*, that "survivors" meant survivors *inter sese*. The case says: "The plaintiffs contend that as to each share, the *survivors are to be ascertained* at the time when the share went over." Thus was presented the identical question now at bar, namely, whether words of survivorship in a gift over are to be referred to the point of time when the prior interest fails, and whether the survivors are to be then ascertained; or whether these words are to be referred to the period of division and payment, and the donees then ascertained. The court said:

"One sees that if there be a gift, either of real or personal estate, to one for life, or a limited period, and then a gift to a class, and the survivors or survivor of that class, the word survivor is *uniformly referred to the period of distribution*. This was settled by *Cripps v. Wolcott*, with respect to personal estate, and now by *Gregson's Trust Estate*, overruling *Doe v. Prigg*, as to real estate." * * *

It was held, accordingly, that as Hannah Marriott was not a survivor at the time appointed for distribution, she did not answer the description of a donee in the clause of survivorship, and could take nothing at all under the gift over to survivors. To the same effect are the cases of *Sturges v. Pearson*, 4 Madd., 411, and *Harrison v. Foreman*, 5 Ves., Jr., 207, cited and relied upon by the V. Chancellor in the foregoing case.

In *Littlejohns v. Household*, 21 Beavan, 29, the testator devised a freehold house to his three daughters, Catharine, Ann and Elizabeth, for life, and after their death, to his three grandchildren, Catharine, Christiana and William, and directed his trustees to convey accordingly. In the event of the death of either grandchild in the life-time of his daughters, then the share of any so dying was to be *transferred to the survivors*, and if only one should be living, then to him or her so *surviving*.

Of the daughters, one, Catharine, survived her two sisters, and also all the grandchildren, and died in 1854.

Of the grandchildren, all died in the life-time of the daughter

Catharine, and Christiana, the last survivor of them, died in 1852.

On the death of the last daughter, Catharine, the plaintiff, a heir of Christiana, the surviving grandchild, claimed to be entitled under the will, and in the events that had happened to the entirety of the freehold house. It was contended that Christiana, having survived the other two grandchildren, whose interests failed at their death, became entitled to the entirety of the premises, though she did not survive at the period when the transfer was directed to be made.

On the other hand, Mr. R. PALMER contended that the survivorship must be referred to the time of the transfer of the gift upon the authority of the cases to that effect. And it was so held. The Master of the Rolls said:

"Those being the words, the question is, in the first place, *when is the transfer of the estate to take place?* It can only take place after the death of the surviving tenant for life; that is, after the death of the surviving daughter of the testator. The same period must be the time for divesting the estate in case it was divested. 'Surviving,' therefore, at the end of the clause, means surviving the last tenant for life. The case of *Thompson v. Wolcott*, therefore, clearly applies to this case, and this is clear by the word 'transferred,' because there could be no transfer till after the death of the last tenant for life."

Of course, the principle is the same, whether the claim made in favor of the survivors is the vesting in them of a contingent estate, or the divesting, for their benefit, of an estate previously vested in others.

Now, bearing in mind the point which I am seeking to enforce, that the reference of the words *survivor* or *survivorship* is always to the period of distribution, at whatever point of time that may be appointed; that wherever that period of distribution goes it draws the reference of these words after it, I call attention to a few cases in which the time of distribution is appointed at a different period from the more usual one of the death of a tenant for life, or of that of the failure of the prior

estate. These cases will also show, that whatever the circumstances may be which postpone and determine the period of distribution, it is that period, nevertheless, that settles the reference of the words of survivorship. Where the time of distribution is concurrent with the failure of any particular estate, the reference of survivorship is to that time. Where the distribution comes at the death of the tenant for life, that fixes the reference of the words of survivorship. Where the distribution comes only *after* some other event which is to determine the property or fund to be divided, the survivorship relates to that period of distribution. Wherever you fix the period of distribution, the reference of survivorship follows it.

The case of *Brograve v. Winder*, 2 Ves. Jr., 634, is one of those cases, of which a group will illustrate this point.

In that case, the testator gave all his estates to his nephew for life, and to his sons in tail male successively; and in *default of any son*, then to trustees upon trust to *make sales thereof*, and to *distribute the proceeds of such sale* equally among the three children of his niece, or the survivors or survivor of them. It is to be observed, that after the death of the tenant for life there was to be a conversion of the estate into personal property, and *then* a distribution of *the fund arising by conversion*. Lord LOUGHBOROUGH said:

“ In this will, the penning of which is very particular, when once
 “ you fix his intention, that they shall *take it in money*, which is
 “ clearly the sense of this will, *there is no gift till the distribution*; the
 “ object of the distribution is pointed out to be among the persons
 “ named, or the survivors or survivor. That *excludes the possibility* of
 “ taking in, *as objects of the distribution*, persons who are dead.”

In *Hoghton v. Whitgreave*, 1 J. & W., 146, the will gave real and personal estate to testator's widow for life, and after her death to trustees, to be *converted into money*, and *then* to “ be
 “ paid and equally divided, share and share alike, amongst mine
 “ and my wife's nephews and nieces, hereinafter mentioned, and
 “ the survivors or survivor of them. [Naming twelve persons.]
 “ And I do hereby give and bequeath the same to them and to
 “ the survivors or survivor of them, after the decease of my

“ wife, and in manner aforesaid.” The court held that the case fell within the same principle as *Brograve v. Winder*, last cited. Sir THOMAS PLUMER said:

“ The subject matter is *not to be converted* into money till after the death of the tenant for life; it is then, that for the first time, any thing is given to the trustees. It is given upon trust, to be converted into money, and *then* to be divided. Thus, not only was there no bequest before the widow’s death, but *the subject matter did not till then exist in the shape and form in which it is given.*

“ It is given to those persons and the survivors or survivor of them; and seems to fall under *the general rule*, that legacies given to a class of persons, vest in those who are capable of taking at the time of distribution.”

In *Newton v. Ayscough*, 19 Ves. Jr., 536, the testator gave to one for life, the interest of certain securities, “ and after her decease the said £300, etc., to be sold and divided among his residuary legatees, or the survivor of them, share and share alike.”

Sir WM. GRANT said:

“ Here is a direction to trustees, at the death of the tenant for life, to sell the fund and divide the produce among his residuary legatees, or the survivor of them, share and share alike. That naturally points to the period of sale, as the period to *ascertain who are the persons to take.*”

In *Jennings v. Jennings*, 44 Ill., 491, the testator directed the executor to sell all his real estate, and after payment of his debts, to divide the remainder of the proceeds of the sale equally among his four children, and in the event that any of them died, the deceased’s portion to go to his child or children, equally. It was held that the interests of the several children of testator *did not vest until the real estate had been converted into money as directed by the will.* The testator died on August 7th, 1860. Israel Jennings, Jr., was his son, and he died in September, 1861, leaving his widow with several children. The executor made sale of the land in May, 1863, and then the widow of Israel Jennings, Jr., claimed a share in the distribution of the money arising from the sale by the executors. It will be observed that the son was

living at the time of the death of the testator, but died before the sale made by the executors. It was *held* that no interest vested in him under the will, and that no one *claiming through* him was entitled to anything. When the fund was ready for distribution, his *children* took *directly* as the *devisees under the will*.

Chief Justice BREESE said:

“ We are satisfied no present interest passed to Israel Jennings, Jr., as
“ the land was not converted into money until after his death, and by
“ the express terms of the will, in case of the death of any one of testa-
“ tor's children, his share was to go to such children as he might
“ leave.”

Is not this judgment the precise parallel of that of Sir THOMAS PLUMER, in *Hoghton v. Whitgreave* ?

Another case to the same effect is that of *Montague v. Carneal*, 1 A. K. Marsh, (Ky.) 259. In that case the testator devised to each of three children ten thousand dollars worth of land, to be valued and allotted out of certain tracts. It was held that no interest vested in any devisee “ until a valuation
“ and allotment were made agreeably to the direction of the
“ will.”

In *Vorley v. Richardson*, 8 D. M. & G., 126, the estate was to be divided between the wife and children when the *youngest* attained 21, with benefit of survivorship. It was *held*, that survivorship referred to the *period of distribution*—the time when the *youngest* should attain 21—and that the shares of the children did *not vest as they respectively* attained 21. See also *Forrester v. Smith*, 2 Ir. Ch. R., 70.

Now, all these authoritative adjudications cover various periods or events to which the court was pressed to refer the meaning of words of survivorship. Among them are many cases where, exactly as in the present one, it was urged that the reference should be, not to the period of actual distribution or payment, but to an earlier time, when it had merely become certain that some prior interest had failed. Nevertheless

they establish the rule of construction exactly as we have stated it. Let us state it again :

Where there is a gift to survivors, and a period can be found appointed in the will for the payment, transfer or distribution of the subject matter of the gift, it is settled rule of law, whether that subject matter be personalty or realty, that the survivorship has reference to the period of payment or distribution, unless there are express words in the will compelling its reference to some other period. At whatever period the payment or distribution is fixed, it draws the reference of the words, "survivors" or "survivorship" to it.

It will be observed that, these cases of *Knight v. Poole*, *Cambridge v. Rous*, *Carver v. Burgess*, *Edwards v. Edwards*, *Brograve v. Winder*, and *Vorley v. Richardson*, represent so many different *classes* of cases in which *different points of time* have been proposed for the reference of words of survivorship. In *each* class of these *cases*, in obedience to a *general rule*, they have been held to refer to the period of division or payment. Under that form of gift there is *no gift* to any one except such as are *surviving and capable of taking* at the time of distribution. It excludes all who are dead, so that no one can claim under them through the statutes of descent. It includes all who may be born so as to be alive and capable of taking at that time. The being a *survivor* at such *time* of distribution so enters into the *description* of the persons to whom the gift is made, that no one can take under such a gift who does not *answer that element* of the description.

It is the time of distribution, then, that determines who are to constitute the class designated as the donees. The gift is directly to such as are surviving at the time of distribution, and to them only.

This reference is confirmed and made perfectly certain by the fact that the same result would follow, even *if there were no words of survivorship* at all, from the mere form of the gift; from the fact that there is no gift at all here, except *in the direction to distribute*. There is no gift to any one, except *to such as*

can take at and through the distribution; and it follows, being well settled upon principle and authority, that nothing is given to any one except *such as may be on hand capable of taking* at the time of distribution. It cannot, therefore, until the distribution, be ascertained to whom any gift is made.

To that effect are all the authorities in which such a form of gift has ever been considered.

In *Leake v. Robinson*, 2 Mer., 363, there was a direction to trustees, in case Wm. Rowe Robinson should die without issue to *pay, apply and transfer* unto and among all and every, his brothers and sisters, share and share alike, *upon their attainment of 25 or marriage*, respectively. The question for the court was (p. 370), whether the limitation over was good or was void, as being too remote; and this depended upon "what classes of persons were those intended by the testator to take, in the event of Wm. Rowe Robinson dying without issue"; whether those only were the donees who lived until 25 and attained the period of *actual payment and transfer*, or whether that was merely a time fixed for payment of shares that had vested at some antecedent period.

Sir WM. GRANT said:

"There is *no direct gift to any of these classes of persons*. It is *only through the medium of directions given to the trustees* that we can ascertain the benefits intended for them. * * There being, as I have already said, no direct gift to the grandchildren, we are to *see in what event it is that the trustees are to make it over to them*. * * The attainment of 25 is necessary to entitle any child to claim a transfer. It is not the enjoyment that is postponed; *for there is no antecedent gift*, as there was in the case of *May v. Wood*, of which the enjoyment could be postponed. The *direction to pay is the gift*, and that gift is only to attach to children that shall attain 25. * * None but a person *who can predicate of himself that he has attained 25 can claim anything under such a gift*."

That is the situation under this will. They have nowhere undertaken to show any clause that could be construed into a gift or reference to these parties, except the direction in these last few words, that after all the testator's family were extinct, and there was no living being of his blood or his immediate

family on earth, then the public might have one-half of this estate, and the rest should be distributed among his collateral relations then surviving. The only gift is in this phrase: Then my trustees shall divide my estate into two equal parts, and shall *proceed to distribute* one of such shares among the lawful surviving descendants of my brothers and sister. That is all there is. There is *no direct* gift to any of this class of persons; and it is only through this direction to the trustees that we can *ascertain any gift* intended for any of them.

In *Vawdry v. Geddes*, 1 Russ. & Myl., 203, the principal of a residuary estate was given to children at twenty-two with limitations over.

Sir JOHN LEACH said :

" I am not able to distinguish this case from the residuary gift in "*Leake v. Robinson*. * * * In that case Sir WILLIAM GRANT proceeds upon this principle — that the prescribed time cannot be considered as marking only a time of postponed payment, *because there is no antecedent gift* — no gift but *in the direction to pay* at the particular period."

In *Drake v. Pell*, 3 Edw. Ch., *267, executors were directed to hold the residue of an estate in trust until the majority of the youngest child, and then to make distribution equally among the children.

The court said :

" The principal or capital of the residue of the real estate devised to the executors in trust, that is to say, the beneficial interest or ownership in it, was not given away, but remained undisposed of until the youngest came of age. Even when that period arrived, the will contains no express gift in terms to the children, though the direction to the executor to sell and divide the proceeds equally between the nine children, or to make partition and convey to them, imports and carries with it a gift. The *time appointed* for doing this, however, *is here of the substance of the gift*, and not for carrying a gift previously made or expressed into effect. It is not the case of an immediate gift which takes effect from the death of the testator, and where time allowed for realizing the benefit of it operates merely as a postponement of payment or of the enjoyment of the property given."

In *Knight v. Pool*, *supra*, p. 9, was a bequest to A for life, then to B, and at her decease *to be divided among* four persons, or “as many of them as may be living.” Some of the four survived one of the life-tenants, but died before the other. The question was who were the donees. Sir JOHN ROMILLY said:

“ I am clear that no person took except those who survived the period of division. * * The property is *to be ‘divided’* and nobody was to take who was *not living at* the period of division. * * I am of opinion that the words in question have relation to the period of division, and *that the plaintiff takes no interest* in the property.”

In *Locke v. Lamb*, 4 Law R. Eq., 372, was a “bequest of a sum of stock to be divided, after the death of an annuitant, between all the children of A. B., as they should attain his or her age of twenty-one years.”

V. Chancellor MALINS said :

“ In this bequest there is no gift of the interest, or direction as to its application for the benefit of the legatees, but it is directed to be *accumulated and form part of the capital*. The *direction to divide is the only gift*, and that gift is *only to attach to* the children who shall attain twenty-one. * * *

“ Now the case of *Hanson v. Graham*, was decided by Sir W. GRANT in 1801, at the commencement of his judicial career, and *Leake v. Robinson*, in 1817, at its conclusion ; and, therefore, during the whole of his judicial life he adhered to the same rule, that a gift of a legacy, ‘as,’ or ‘when,’ or ‘if,’ the party attains twenty-one, renders the gift contingent. In this case there is no gift whatever of interest, and therefore, as this case falls so distinctly within the rule laid down by Sir WILLIAM GRANT in *Leake v. Robinson*, and his decision in *Hanson v. Graham*, where the gift would have been held contingent if it had not been for the gift of the interest for the benefit of the children during the minority, I should have had no hesitation in deciding against the representatives of children who had died under the age of twenty-one, at the conclusion of the arguments, if I had not been pressed by numerous authorities which appeared to have impugned the decision of Sir WILLIAM GRANT in *Leake v. Robinson*. I have now carefully considered those authorities, and I am satisfied that the rule laid down in that celebrated case is still the *rule of the court*. Mr. Wickens, who argued the case for Mrs. Lamb, against the claim of the children who died previously, *correctly stated that no judge had ever proceeded so far as to*

“ overrule *Leake v. Robinson*, or to decide in contravention of the rule laid down by Sir WILLIAM GRANT, and it will be found that all the authorities relied upon depend on their own particular circumstances which distinguished the gifts decided upon in those cases, from that in *Leake v. Robinson*.”

The emphasis is very great thus given by V. Ch. MALINE to the statement, that “no judge has ever proceeded so far as to decide in contravention of the rule laid down by Sir WILLIAM GRANT.” That rule is, that when there is no antecedent gift, and no gift except in the direction to distribute, then there is *no gift* to any one *until* the distribution. *No one* can predicate of himself *until that time* that he is *a donee under the will*.

The crucial test, therefore, of the donees in the case at bar is the time of distribution; and this *form* of gift *confines the reference* of the words of survivorship to the same period. The test of the *class* to whom distribution is to be made is survivorship at the time of distribution; not at the death of JULIA NEWBERRY. If by any effect of events the time of distribution and the death of JULIA might be made to come together, still that test would be the time of distribution, and not the time of the death. Whatever the time may be at which the distribution is to be made, it is still survivorship at that time, and not at the death of JULIA, which furnishes the criterion by which the class is to be ascertained within which the distribution is to be made.

Here, then, given by the testator, is the *description of the donees*. They are the descendants of his brothers and sister, *surviving at the time of distribution*, whenever that may be. This is the description given by Mr. NEWBERRY of the persons to whom his devise is made, and *no one can claim* under that devise, except one who can bring himself completely within that description. This is clear, not only to sense and reason, but, under the whole volume of authority upon the point.

In *Merry v. Hill*, L. R. 8 Eq., 619, the same V. Chancellor, MALINS, said :

“ The testator gives a legacy of £10,000 to Mrs. Merry, the “ mother of these children, for life, and after her death it is to be “ divided among all and every such child or children of the said “ Mary Ann Merry as shall be living at her decease. Therefore it is to “ go to all the children living at her decease ; but *that is not to be the* “ *sole qualification* of their taking, as it is to be children living at her “ decease *who shall attain* the age of twenty-one years. Therefore “ they *must survive the mother* and *also attain* the age of twenty-one “ years ; and in this clause the testator has used the best expression “ that could be found for the purpose, namely, children who attain the “ age of twenty-one years, because that is *described as the qualification* “ by which they are to take, and *no child can take who does not attain* “ *that qualification.*” * * *

In *Festing v. Allen*, 12 M. & W., 279, the testator devised freehold estates to trustees for the use of his granddaughter, Martha, for life, “ and from and after her decease to the use of “ all and every ” her child or children “ who shall attain the “ age of twenty-one years ; ” “ and for want of any such issue,” the estate was given over—one-half to certain persons, and the other half to others. The granddaughter, Martha, died, leaving three children, but they were not twenty-one years old. The estate was claimed by the heir-at-law, by the devisees over, and also for the infant children. In behalf of these children it was attempted to be made the question in the case, whether the estate remained in contingency until they attained twenty-one, or whether it vested in them on their birth, liable to be divested if they did not attain the prescribed age. It was *held* that the gift was to children *twenty-one years of age at the death* of the mother ; and as none of these children *answered that description*, the gift to them and the limitations over equally failed, and that the estate belonged to the heir-at-law.

The case arose in chancery before Vice Chancellor WIGRAM, who ordered it to be stated for the opinion of the Barons of the Exchequer. In their opinion ROLFE, B., said :

“ Martha Hannah Johnson survived the testator’s widow, and after “ his death, namely, in the year 1825, married Maurice Green Festing.

" She died in 1833, leaving three infant children ; and the main question is whether those children took on her death any interest in the devised estates.

" We think that they did not. It was contended on their behalf that they took vested estates in fee immediately on the death of their mother, subject only to be divested in the event of their dying under twenty-one ; and the case, it was said, must be treated as coming within the principle of the decision of the House of Lords in *Phipps v. Ackers*, and the cases there referred to. To this, however, we cannot accede. In all those cases there was an absolute gift to some *ascertained person* or persons, and the court held, that words accompanying the gift, though apparently importing a contingency or contingencies, did in reality only indicate certain circumstances, on the happening or not happening of which the estate previously devised should be divested and pass from the first devisee into some other channel. The clear distinction in the present case is that here there is *no gift to any one who does not answer the whole of the requisite description*. The gift is not to the children of Mrs. Festing, but to the children who shall attain the age of twenty-one, and *no one who has not attained his age of twenty-one years is an object of the testator's bounty any more than a person who is not a child of Mrs. Festing.*"

The decree was entered by Vice Chancellor WIGRAM in accordance with this opinion.

Holmes v. Prescott, 10 Jur. N. S., 507, is not only a concurring case with this, but there Sir W. PAGE WOOD reviews this whole subject, and discusses and concurs in this case of *Festing v. Allen* : and he affirms it as a leading case controlling this situation. See also Theobald on Cons. of Wills, 268.

In *Rhodes v. Whitehead*, 2 Dr. & Sm., 532, Vice Chancellor KINDERSLEY said :

" In this case we have in substance a devise to one for life, and after his death to such of his children as shall attain twenty-one. Now, according to the *plain import of that devise*, the *only* persons *to whom any gift* is made by way of remainder, are such children as shall attain twenty-one ; and there is *no gift whatever, either expressed or implied, in favor of any child who does not attain twenty-one.* * * *

" I concur in the view taken by the Vice Chancellor, WOOD, in *Holmes v. Prescott*, and by the Vice Chancellor, WIGRAM, in *Bull v.*

“ *Pritchard*, and which was also taken in the case of *Festing v. Allen*.
 “ It appears to me that that is the right principle ; and I must decide
 “ this case in accordance with those decisions.”

In *Batsford v. Kebbell*, 3 Ves., Jr., 363, the testatrix gave to Robert Endley dividends of stock until he attained thirty-two, *at which time she directed her executors to transfer to him the principal*. He died before thirty-two.

LORD LOUGHBOROUGH said :

“ I have read over the will, and have looked into the cases, and am
 “ confirmed in my opinion. Upon the cases it appears that dividends
 “ are always a distinct subject of legacy, and capital stock another
 “ subject of legacy. In this case there is *no gift but in the direction for*
 “ *payment*, and the direction for payment attaches *only upon a person*
 “ *of the age of thirty-two. Therefore he does not fall within the*
 “ *description.*”

The devise, then, in the case at bar, is to such persons, and they only are the donees who can predicate of themselves the whole of this description, namely, that they are surviving stirpal descendants, not at the death of JULIA NEWBERRY, but at the time of distribution, whenever that may be.

Now, when we come to consider the vesting of interests under this devise, it will be very plain that no estate or interest can vest in one *to whom there is no gift* ; who cannot predicate of himself this description, and who is not, under it, a donee. If we ascertain now the time of distribution appointed by the testator, we shall have accurately his description of his donees.

We come, then, to the question : What time has the testator appointed for this distribution ?

We say he has directed it to be made upon the decease of his widow ; and if, upon any view, the time of it can be advanced so as to arrive upon the failure of any *estate* of the widow, it must be upon the failure of whatever estate of hers is complicated and entangled with the estate of the testator to be divided.

But there is ample ground to say that Mr. NEWBERRY appointed the time of division with direct reference, not to any

estate of his widow, but to her life; and that this period is conditioned upon the termination, not of any estate, but of her life, according to his actual words.

In the first place, look carefully at the actual words of the will :

“ In case of the death of both my said daughters, without leaving
“ lawful issue, then *immediately after the decease* of my wife, if she
“ survive my said daughters, but if not, then immediately *after the de-*
“ *cease of the last* surviving one of my said daughters, *my said trustees*
“ *shall divide my estate into two equal shares* — my said trustees being
“ the sole judges of the equality and correctness of such division —
“ and shall at once proceed *to distribute one of such shares among the*
“ *lawful surviving descendants* of my own brothers and sisters, such
“ descendants taking *per stripes* and not *per capita*. (Record, p. 28.)

There is nothing here, or in this connection in any part of the will, about the estate of the widow. Mr. NEWBERRY might very well prefer that his estate should not, during the life of the members of his immediate family, be dispersed; and that is the effect, in any event, of his actual words. It is common to say that in wills the question is one of the *intention* of the testator; but the accurate statement of the principle is this :

“ The question in expounding a will is not what the testator meant, “ but *what is the meaning of his words.*” *Martindale v. Warner*, 15 Penn. St., 471. “ The use of the expression, that the intention of “ the testator is to be the guide, unaccompanied with the constant ex- “ planation that it is to be sought in his words, and a rigorous atten- “ tion to them, is apt to lead the mind insensibly to speculate upon “ what the testator may be supposed to have intended to do, instead of “ strictly attending to the true question, which is, *what that which he “ has written means.*” (2 Williams on Ex'rs. 7 Ed., [1078] and cases cited.)

What reason is there for saying that this testator meant anything other than the ordinary plain sense of his words? There is absolutely *nothing* else in any part of the will which is to be taken in connection with this, upon any authority of the testator's language. Every other suggestion is purely speculative and imaginary.

We are compelled to regard this language as if there were,

in effect, two persons here—the daughters as one, and the wife. The wife being dead, the distribution is to be made at the death of the last daughter. The daughters being dead, it is to be at the death of the wife.

Suppose there had been but one daughter, and the direction had been, as here, to divide the estate upon the death of the survivor of those two; and a provision in the will, as here, that in case any gift by the will should fail for any cause, it should revert to the mass of the estate till the division. Could there be any doubt as to what event was intended to mark the period of distribution?

In the express words of the testator, the decease of his wife is made a condition of the distribution in every case where distribution is directed by the will. There are four such cases.

In case of the death of the daughters having issue, the distribution of the capital of the entire estate is to be made to the issue, but not until after the death of the widow.

If there should be sons of his daughters, or either of them, the division to the issue is postponed so as to allow one son of each daughter to attain 21 years of age; but even then it must await the decease of both daughters and the wife.

In case the daughters die without issue, leaving their mother, then it is to be made immediately after her decease.

If either daughter survives the mother, it is then appointed upon the decease of the last surviving daughter.

Now, in all this, there is no reference to estates, but only to the passing away of the immediate family of the testator.

I ask the court to observe that in this will and codicil there is a group of clauses giving the widow a testamentary estate, and declaring the conditions on which it is given. They are in the will on pages 13 and 14 of the abstract, and in the codicil on pages 20 and 21 of the abstract.

There is another and independent group of clauses providing the conditions for the final distribution of the testator's estate; and in every case the death *simpliciter* of the widow is com-

bined to determine the date of the distribution. They are in the will on pages 15, 17 and 18 of the abstract.

But the clauses relating to her testamentary *estate* are without the least reference to the time of *distribution*; and the clauses that determine the time of distribution, by her death, are without the slightest reference to her *estate*.

Where then is the evidence which can *justify*, still less require us to say that Mr. NEWBERRY did not mean what he said—the death of his wife,—but that his words mean what they do not even suggest the renunciation of the estate he tendered her?

But there are other words of the testator which ought to put this question at rest.

“ In case of the death of both of my said daughters without lawful issue, it is my will that *thereafter* the portion of my estate, both principal and interest, which would have belonged to them respectively, in case they or either of them had survived, *shall revert to and become a part of my estate*. And it is my will, and I direct that in the case of each and every bequest, and of every instance in which I have directed my trustees to pay over money to any person or persons whomsoever, if the person or persons to whom or for whose benefit I have made such bequests, or directed money to be paid as aforesaid, shall have deceased, or from *any cause be incapable of taking*, then the amount so bequeathed, or so directed to be paid over, *shall revert to and become a part of my estate*, unless I have otherwise specifically directed.”

What gift or what payment of money was in the mind to the testator in the last of the above two sentences? It was not the income or other legacies given his daughters; for these are specifically provided for in the first sentence. It was hardly the trifling legacies given to some three or four of these present claimants that were likely to fail. To what gift or payment of money, which the donee might become “incapable of taking,”—as Mrs. NEWBERRY became incapable by her election, of taking her homestead and annuity,—does this language refer with so much force as to this testamentary estate offered to Mrs. NEWBERRY if she would consent to take it in lieu of her dower? Certainly this is included with the others, and the direction is—not that there shall be an immediate distribution of the estate, but that

the failing gift "shall revert to and become a part of the estate." It is to revert for the purpose of the trust, and continue a part of the estate until the appointed division. It is coupled in under precisely the same terms as the other gifts and payments of money; and there is no more provision for a distribution of the estate upon the failure of the devise and annuity to Mrs. NEWBERRY than upon the failure of the annuity to Mrs. EDGERTON, or the legacy to Mrs. CANDEE. Certainly Mr. NEWBERRY did not contemplate that the failure or lapse of any one of these was, any more than any other, to affect the time he had appointed for the distribution of the estate.

Compare some other cases in this will when the time of distribution is spoken of, in connection with the life of Mrs. NEWBERRY, and see what justification there is for the pretense that the testator meant not her life as he says, but the interest offered her in lieu of her dower.

"In case of the *death of both* or either of my daughters, "*during the lifetime of my wife*, leaving lawful issue living, it is my will, and I direct that such lawful issue shall have and *receive from my said trustees* the portion of the net income from my estate which "would have belonged to that one of my daughters from whom they "are descended, had she survived," &c. (*Abstract*, pp. 15, 16.)

To this issue not only the *income* but the whole capital is given at the time of final distribution. Will it be pretended that here the phrase "*during the lifetime of my wife*," means while she takes her testamentary annuity, and that upon her renunciation, the estate of the trustees would cease and guardians of the minor issue must be appointed and the capital of the estate be at once turned over by the trustees?

"In the management and conduct of my estate by my said Trustees, it is my will, and I direct that the following described premises "and property, situate, lying, and being in the City of Chicago "aforesaid, to wit: Blocks numbered Nine (9), Ten (10), Eleven " (11) and Eighteen (18), in Newberry's Addition to Chicago, and " Lots Twenty-Two (22), Twenty-Three (23), Twenty-Four (24),

"Twenty-Five (25), and Twenty-Six (26), all in Block numbered One (1) in Butler, Wright and Webster's Addition to Chicago, and Sub-Lots One (1), Two (2) and Three (3), of Lot Five (5), in Block numbered Four (4), of the Original Town of Chicago, shall not be sold or mortgaged by my said Trustees during the lifetime of my wife and daughters or either of them, nor until it shall become necessary for my said Trustees to divide and make final division and distribution of my estate as hereinbefore in this my will provided." (*Abstract*, p. 18.)

Then follow careful provisions and directions concerning the powers and discretion of the trustees, concerning leases, concerning sales of realty, concerning the improvement of the estate by the erection of "stores, dwellings, hotels, offices of all kinds," as they may judge best for the interest of the estate; and that the premises above described shall be first improved.

But, particularly, there is this provision that *none of the above property shall be sold or mortgaged by the trustees "during the life time of my wife and daughters, or either of them, nor until it shall become necessary" to make the division and distribution of the estate.* We ask attention, in ascertaining what the testator intended, to some authorities in analogous cases.

In *Roe's Ex'rs v. Roe, et al.*, 21 N. J. Eq., 253, the estate was given in trust to executors, and provision was made for the widow in lieu of dower. There were four children by a former marriage, and five by her own with the testator, of whom four were infants. He established a trust fund of about \$10,000 to provide a home for five of his children, his sister and his widow, till the youngest child should attain twenty-one, or till the death or marriage of his widow. All the residue, after payment of debts and some legacies, the executors were to keep invested, the interest accumulating as part of the estate, until the termination of the trust. The trust was to terminate on the marriage or death of the widow, or the majority of the youngest child. At the termination of the trust, the estate was to be divided between the nine children; though if any of them were then under age, the shares of such were to be held till their majority,

giving them the interest in the interim, *and the principal when of age*. To prevent marriage of the widow, the testator gave the whole estate, if she should marry, to his children by his former wife; and they, to prevent a termination of the trust in that way, conveyed to the younger five the interest that might accrue to them by such a marriage. The widow renounced the will.

The children of the first marriage claimed that by the renunciation, the provision for the home had become impossible, and that *the trust had failed and terminated*; that their release of the effect of the *marriage* had destroyed the contingency; that the share of each child was vested; and that they were *entitled to immediate distribution*, as in case of the death of the widow.

The children of the second marriage and the testator's sister claimed that the renunciation affected only the widow's own interest under the will; and that they were entitled to the benefit of the trust, so far as it concerned them.

The court *held*, that the renunciation affected only the property interest of the widow; that the children and sister were entitled under the trust, and that the *time of distribution remained as it was appointed* in the will. The court said:

"The widow, for herself, had a perfect right to elect to retain her dower. The amount she receives may be, so far as she is concerned, more valuable and of longer duration than the provisions of the will. But neither her choice nor the release of the contingent limitation, in case of her re-marriage, can divest any substantial right given by the will to her children, and vested in them. She may render it difficult or impossible to carry out the provision in the way intended by the testator, but it is the duty of the court to protect these rights, and have them carried out, if not in the precise mode directed by the testator, yet as near that mode as practicable. * * *

"The residue of the principal *must be kept invested until the time of distribution directed by the will*, that is, the termination of the time by the youngest child becoming of age, or *by the death or marriage of the widow*."

In *The Estate of Mathew Delaney*, 49 Cal., 76, the testator devised his residue of estate to executors, with directions to sell

certain realty, and after certain payments, to invest the proceeds remaining ; to *pay certain income* to his children and his wife during her life ; and *on the death of his wife to distribute the estate* among his SURVIVING children. The executors sold the realty ; and the wife, renouncing the will, claimed under the statute.

The plaintiff, a daughter, claimed in her bill, that by the renunciation the trusts in the executors to convert the realty by sale were defeated, and that she was entitled to *immediate distribution*.

The court *held*, that the renunciation "*did not extinguish the trusts declared in the will,*" which were not only *to sell*, but *to hold* the proceeds invested *till the death of the wife*, and then distribute to *surviving* children ; nor did it affect the estate of the executors in the *remaining property*. It confirmed the trust powers of the executors and their sales, and *refused the distribution*.

The Court said, (p. 84):

"The will devised to the executor the fee of the lands in question to be held in trust for the purposes mentioned in the will. The renunciation by the widow of the testator of her right under the will, and the order of the Probate Court setting off to her a portion of the property as common property, *did not extinguish the trusts declared in the will*, nor *divest the executor of the fee in the remaining portion of the property*.

"The executor retained the same power over the *portion of the estate remaining in his hands after the renunciation by the widow*, and the order setting apart the property to her, *that he possessed prior to the renunciation*."

In *Plympton v. Plympton*, 6 Allen, 178, the residue of estate was given in trust for the following, among other purposes :

To pay *to the wife*, so long as she *lived or remained a widow*, three-fourths of the net income for the support of herself and her two children.

At the *death or marriage of the widow* to make a different division of the whole income according to specific directions.

To make investment, but subject to this clause : "But while

“my wife lives or remains my widow, no change in any investment to be made without her consent.”

The widow renounced the will, and the court *held*, that this act affected only her individual property interest, that she lost thereby her share of the three-fourths of the income, and that *during her life*, the period directed by the will, the whole belonged to the two children; that this three-fourths must nevertheless be paid “*in the mode directed by the provisions of the will,*” which was *to her* for their use; that the particular division directed to be made *at her death* or marriage *must still* be made *at her death* or marriage as directed by the will; and that her waiver of the will *did not abrogate the necessity of her consent* to a change of investment by the trustees. Renunciation of the widow did not cause this will, nor those in the other cases cited, “to be read and construed as if they contained no conditions, restrictions, provisions, or limitations in reference to her or her life.” The court said :

“The renunciation by the widow of the provisions of the will does in the present case, as it must in most cases, materially affect other legatees *by reducing the amount of assets to be disposed of by the testator*, and to some extent defeats the particular disposition of his property designed by the testator. This result is, however, to be avoided as far as practicable, and *the bequests to the other legatees are to have full effect, so far as any estate remains from which they may be paid.*”
Firth v. Denny, 2 Allen, 468.” * * *

“The minor children * * take the whole of said three-fourths net income as *cestuis que trust*, the income to be paid to them *in the mode indicated by the provisions of the will.*” * * *

“The provision of the sixth article of the fifth clause, ‘but while my wife lives or remains my widow, no change in any investment to be made without her consent,’ *is not abrogated* by the waiver of the widow of *her personal right* under the will. This provision may be supposed to have been made for the benefit of the minor children, as well as his wife. The *testator having so directed*, and the same *not being a personal benefit to be defeated by her waiver* of the will as to any provisions for her use and benefit; *this clause must be deemed to be still operative.*”

In the case of *Firth, et al. v. Denny, et al.*, cited in the foregoing extract, the court said:

“trine of acceleration does not aid the complainants, they have no right to the possession of the estate, even though they have vested remainders in it.” (*Opinion of Circuit Court, p. 13.*)

But the words of the will are identical in both cases. They are not the same words merely repeated, and in a possible different connection. They are in but one sentence in the will, and the same words and phrase used but once must govern in both alternatives. It is simply this:

Upon the <i>decease</i> of my wife, if she survive my daughters:	} “My trustees shall divide my estate.”
Upon the <i>decease</i> of my daughter, if she survive my wife:	

Whether the complainants have vested remainders, and whether they can be helped by any doctrine of acceleration, we will presently consider. But at present we have ascertained that the donees under this devise, the only persons to whom there is any gift by this will, are those descendants who can *answer the description* of survivors at the time of distribution; and that this period of distribution, which determines the class of distributees, is, by the plain meaning of the words of the testator appointed at the *decease* of his wife, and the passing away of his immediate family.

But upon the assumption, which we may make for the sake of argument, that the period of distribution is appointed, not upon the death of the widow, but upon the termination of her life interest in the testator's estate, what life interest must be taken to have been regarded by the testator?

Let us look at the situation of Mr. NEWBERRY, when he came to make this will. Of an estate of several millions, three-fourths was realty; and he found it, of course, charged in every parcel and entangled with a statutory estate in his wife, co-extensive with her life, and from which no compensation, no equivalent or substitute which he could offer could disentangle it without her consent; *nor even with* her consent during his life-time and hers. He could tender to her by his will some other provision in ex-

moved none. But the statutory estate gave rise to reasons which are as constant a quantity as that immovable estate itself. That is an estate to which the testamentary annuity and homestead are but secondary and alternative. A provision by will in lieu of dower is in fact and in legal effect a mere offer by the testator to purchase out the dower interest for the benefit of his estate. The provision offered is a mere price tendered. Such a devise is not a bounty like others, but is mere purchase money offered for what the widow is invited to relinquish. It is not, therefore, a gift, but is merely "a matter of *convention or contract*," proposed by the testator to his wife. If accepted, the wife is entitled to the price in preference to other legatees, for they take by bounty. But it is a mere proffered substitution. It stands on the same basis as an offer to a creditor in satisfaction of a debt.

In *Isenhardt v. Brown*, 1 Edw. Ch., 413, the court say:

"The legacies given to her by this will are partly specific and partly pecuniary; and they constitute the provision made for her by the testator in lieu of her right or dower in his estate. It is the price put by the testator himself upon that right, and which she is at liberty to accept. Her relinquishment of dower forms a valuable consideration for the testamentary gifts. In this point of view she becomes a purchaser of the property left to her by the will. So, on the other hand, the husband offers a price for his wife's legal right of dower, which he proposes to extinguish; and if she agrees to the terms she relinquishes it, and is entitled to the price. It is, therefore, a matter of convention or contract between them; and what she thus becomes entitled to receive, is not by way of bounty, like other general bequests, but as purchase money for what she relinquishes, and which consequently must be paid in preference to other legacies, they being merely voluntary. This doctrine is clearly stated in the first volume of Roper on Legacies, 297, and it is a doctrine well supported by judicial authority."

See also 2 Scribner on Dower, 496; 2 Williams on Ex'rs, Ed. 1877 [1364].

But it is a mere offer. The substitution of estates proposed cannot be effected by the testator. The alternative remains, that the consideration tendered may be refused. The idea is simply absurd, that it did not occur to Mr. NEWBERRY that his

proposal might not be accepted, and that the careful provisions of his will have no reference to that alternative. This, which is called the testamentary estate, was but incidental, subordinate and alternative to the primary statutory interest which affected the whole estate of the testator. It was but an offer, likely to be rejected, and which was rejected; and the busiest inquiry has failed to suggest the slightest relation between it and the directions of this will relating to final distribution. None exist. The distribution is appointed at a time when, in either event, the life interest of the widow will have fallen into the estate. It is appointed in fact after the death of the last member of the testator's family. The learned judge in the circuit court said, that if Mrs. NEWBERRY had taken under the will there could have been no such division as claimed in the bill, "for two reasons : *First*. "The will is clear and distinct upon this point. *Three lives* "must terminate before distribution can be made. *Second*. In "the *nature of things no division and distribution could be had so long as the widow's testamentary estate existed*. She was to "derive an income from the whole property, and the income "was an incumbrance upon the whole property. She was "also to have a homestead for life out of testator's property." (*Opinion*, p. 13.)

In the first place it is said that "the *will* is clear and distinct "upon this point." But it is not more clear, to this effect, in the case of the testamentary than of the statutory estate. If it is, why are we not referred to some phrase or suggestion that connects this clear language with the testamentary estate? Not one has been found; and this court will not find in this will a shade of thought connecting the clear words and meaning of this will concerning the time of final distribution with the testamentary estate any more than with the statutory one; nor in fact with either at all. No consideration has been adduced which tends to relate this period to the testamentary estate, which is not *more forcible* in its relation to the statutory one; and in either case any such consideration must be reached by inference and argument, for it is not found in any words of the will.

Then, it is *secondly* said, that “*in the nature of things*,” no division could be made if the widow had taken under the will. The reason given is that a part of the estate would be outstanding for her use during her life, and no division could be made until that life interest fell in! Certainly, that is right. It is consonant with reason, and with the terms and scheme of the will. But would not one infer from this language of the learned judge below, that the renunciation of the widow had removed this difficulty, which, “*in the nature of things*,” prevented a division of the estate? And is that true? If she had taken under the will, she would now be holding out a quarter of a residence block as a homestead, and an annuity of \$10,000. This annuity might have been provided for as was done in *Sears v. Hardy*, 120 Mass., 529, in the supreme court of Massachusetts, by setting aside a portion, say \$200,000, of the personalty of this estate, invested in such securities as are directed by the will. Then the rest of the estate would be disengaged. But now she is holding outstanding for her lifetime one-third of all the realty of this estate. In the lands in Illinois, her dower has been assigned; but in valuable lands in several counties in Wisconsin, dower has not been assigned. These lands are still charged in every part with the widow’s life estate. Nor can they be freed by any process more simple than that by which, as in *Sears v. Hardy*, all the lands of the estate might have been freed from their charge for the annuity. Every impediment in the nature of the testamentary estate is magnified ten fold in the statutory estate. No one reading this judgment below would learn, or suspect, that the failure of this testamentary proposal, so far from removing the impediments to division, emphasized by the court, left the estate complicated in a far greater degree with the same impediments arising from the statutory estate. Nor would one learn that in this will there is no gift to any one, except in the direction to distribute, so that no one is a donee, except such as may be present, capable to take at and through the distribution; and we are justified to charge error in a judgment which can only be made superficially plausible, by putting

out of sight not only the whole form of the only gift by the will set up by the claimants, but also all the facts concerning the alternative estate taken by the widow. It is plain, therefore, upon the express words of the will, and upon all the considerations of reason presenting themselves to the testator, that this time of distribution is appointed not merely after the termination of the testamentary estate, if we are to regard estates at all, but after the termination of that more substantial statutory estate of the widow, for which the former was but a proposed substitute. This is the meaning of the provision, occurring wherever there is occasion for it throughout this will, that every gift or interest failing by lapse or otherwise before the time of final distribution, *shall revert to the mass of the estate*; no remainder in it being limited to any one until at and through the final distribution.

It must be agreed, that if the testator knew the right of the widow to retain her statutory estate, then he had equally in view the contingency that she might retain that estate, and the contingency that she might accept the testamentary substitute tendered her. If that be so, then he made the directions of this will, appointing the time of distribution and the class within which that distribution should be made, in equal view of *both* contingencies, and intended those directions to govern equally in either. The provisions fixing the time of distribution are perfectly explicit in the will, and they must govern, and must have been *intended* to govern in both contingencies, if it appears that the testator knew and contemplated both when he made the provisions. That he did so, admits of no doubt.

The widow's right to hold to her dower estate was created by law, existing when the testator made the will. But every man is presumed to know the law, and until the contrary is affirmatively shown, it must be presumed the testator knew his widow might claim her statutory estate; and that he directed the provisions of his will to that contingency. The plain words of this will were employed by him with reference to the precise event that has occurred.

Turning to the will itself, what do its provisions indicate, as to how far the testator had in view the contingency that the widow would claim her statutory estate? Upon page 13 of the abstract he makes the provision he tenders for her benefit. The language is:

“ It is my will and desire to make provision for my beloved wife, “ JULIA BUTLER NEWBERRY, *provided she consents to accept* of the same “ in lieu of and instead of her dower right, and all other right, claim “ and demand to my estate or any part thereof, in the following manner : ”

Did he not know she might not consent? Then he offers her an annuity and a life-estate in one-quarter of the block that constituted his homestead.

This provision alone would, under the statute, have put the widow to her election, but the testator, not trusting to that alone, puts her expressly to an election, and gives her the interest only, provided she consents to accept in lieu of her statutory rights in the estate. Men do not give in the alternative without consciousness that there is an alternative.

But this is not all. After declaring the provision he desires to make, he presents the very alternative to which it is pretended his words do not relate. Having first said what she may have if she will accept the condition, he reverses the case, and presenting the alternative, declares that if she will not consent to the condition she shall have nothing. He says:

“ None of the foregoing provisions for the benefit of my wife shall “ be operative or have any effect, but the same shall all and singular be “ inoperative and void, unless she shall, within twelve months after my “ decease, relinquish in due form of law, all ” claim to my estate.

Did he not contemplate the event that occurred, namely: that she might renounce the will and hold to her statutory estate? If he did, it is impossible not to understand that his language appointing the time of final distribution is directed as much to the statutory estate as to the testamentary substitute for it.

If, instead of renouncing, the widow had accepted the substitutional estate proposed by the will, counsel might have argued,

with more force than they have been able to do in the present case, that her taking the testamentary offer was not what the testator anticipated she would do; that his language fixing the time of distribution related to her substantial statutory estate, with its impediments to distribution; that that estate being extinguished by the acceptance of the testamentary substitute, the reason of postponement was removed, and they had become entitled to immediate distribution of an accelerated estate. The testator seems to have thought it the more probable chance his widow would decline his offer. If she had accepted his provision, they might have contended for the same result they now insist upon; for the *terms of the will* are perfectly explicit concerning distribution, and apply to one alternative as clearly as to the other. There would be less violent wrenching of the terms of the will required, and there would be no more, but the same, words and clauses to be suppressed or construed away.

But the clauses relating in the will to the final distribution, have no connection with those relating to the widow's estate; and the language of the testator appoints the distribution upon the death, *simpliciter*, of the last member of his family.

It is not difficult, therefore, to ascertain who are the donees under this will. The gift is to those descendants of testator's brothers and sisters surviving at the appointed time of distribution. That distribution is appointed at the death of Mrs. NEWBERRY; or, if the words of the will are to be connected with any estate of hers by construction, for in terms they are not so, that estate must be that primary, statutory one which the testator found existing when he came to make this will. It is that which prohibited then and prohibits now, any distribution of the entire estate by the trustees at once to the ultimate donees, such as is directed by the will. For that the testamentary interest was but a substitute proposed for the convenience of Mrs. NEWBERRY, and of the administration of the trust.

II.

Now, the theory which has governed this judgment below is this: That the part of this estate claimed by appellees, vested in them in *interest* at the death of JULIA, the possession being postponed *by the testamentary life interest* offered Mrs. NEWBERRY by the will in lieu of her dower estate; that this substitution having been declined by her, the antecedent life estate impeding distribution was removed, and these persons became, by the rule of acceleration, entitled to immediate distribution of the already vested interests. Upon this question of vesting, at the death of JULIA, the acceptance or rejection of the will by the widow is immaterial. The *interests* limited over must vest at the same time under this will, whether the *enjoyment* and possession are postponed or not. The case of appellees, if supported at all must be supported by these two theses of vesting and acceleration. We believe it matter of demonstration, that both are impossible. Then see :

WHETHER, UNDER THE LIMITATIONS OVER IN THIS WILL, ANY ESTATE WAS VESTED BY THE DEATH OF JULIA NEWBERRY?

If so, it was vested by the force of either an actual intent sufficiently declared in the will; or of rules of construction ascertaining such intent, not apparent without their aid.

The learned judge in the circuit court found by a *special intent* in this will that the interests limited over vested at the death of JULIA NEWBERRY; and rested that judgment upon two supposed indications, viz:

1. The regard shown by the testator for his own name and blood, represented in the persons of the present appellees;
2. The force of the words, "surviving," and "survive," in the other cases where it is used in the will;

To these is added the principle that the law favors the early vesting of estates in those to whom they are given ; but this is a rule of construction, and not an index of a special intent of the testator.

This special regard of the testator for his name and blood as represented in these appellees, is assumed upon two evidences: the confining all his gifts to individuals, to his own collateral relatives on one hand, compared with his asserted neglect of his widow, and meager provision for her on the other; and the supposed employment of certain words of urgency in the directions for distribution among the collateral relatives. A moment's reflection will show how groundless is the first of these. The cruel animadversions in the opinion, uttered, of course, without a thought of unkindness, have, nevertheless, stung with a sense of injustice, and wounded the spirit of, a lady already borne down with more than an ordinary weight of sorrow. This will was made, and the testator died, before the decision of this court was rendered in the case of *McMurphy v. Boyles*.^{*} It was not then known that the widow was entitled, absolutely, to one-third the personalty of an estate, and it was supposed that her statutory interest consisted of her dower, and the share of personalty called her "award." That question was afterwards again considered in this court as between this widow and these trustees.[†]

The provision, the family residence, with all its equipment, for her life, and the net annuity of \$10,000 for her personal use, was, in fact, much more ample, and also more convenient for her, than her one-third of the net product of the realty in which she had dower. Following the authority of the decision in *McMurphy v. Boyles*, Mrs. NEWBERRY held to her statutory rights in order to get the large amount of personal estate they secured to her; but so liberal was the provision of her husband, that it may be seen, from the schedules of this record, that it would, probably, have been better for her to have accepted the will than to have burdened herself with the taxes, assessments, repairs, insurance, compensation of agents, and other expenses inseparable from the management of her dower estate, which is largely unproductive. It is easy, of course, and very common, for imagination to exaggerate the

^{*} *McMurphy v. Boyles*, 49 Ills., 110.

[†] *Skinner et al., Trustees, &c. v. Newberry*, 51 Ills., 203.

productiveness of even very large estates. This much is due, not less to redeem the provisions of this will, and her husband's regard for this lady, from the ungracious light in which they are, inconsiderately no doubt, presented, than to show how utterly groundless is the inference from this premise, of the testator's interest in these particular descendants, and of the special intent imagined for the vesting of interests in them in advance of the actual division of the estate.

How stood, then, the "*urgent words*" that are supposed to indicate this solicitude and intent? What are they? They are italicized in this extract from the will:

" In case of the death of both of my said daughters, without leaving
 " lawful issue, *then immediately after* the decease of my wife, if she sur-
 " vive my said daughters; but if not, *then immediately after* the de-
 " cease of the last surviving one of my said daughters, my said Trus-
 " tees shall divide my estate into two equal shares, my said Trustees
 " being the sole judges of the equality and correctness of such division,
 " and shall *at once* proceed to distribute one of such shares among
 " the lawful surviving descendants of my own brothers and sisters, such
 " descendants takings *per stirpes* and not *per capita*."

Upon this we have the following comment; the capitals are our own: *

" The repetition of the adverb 'immediately,' and the use of the
 " words 'at once' in testator's direction to his trustees to divide and
 " distribute to the descendants of his brothers and sisters, as well
 " as the use of the words, 'as soon as can consistently be done,' in
 " the direction to apply a moiety of the estate for the founding of a
 " public library, are all opposed to the idea that the testator desired
 " that his estate should be left in the hands of his trustees to accumu-
 " late, in the event of the death of his wife, and the death of his
 " daughters without issue, BUT PRESSINGLY IMPERATIVE LANGUAGE IS
 " EMPLOYED ONLY IN REFERENCE TO THE DIVISION AND DISTRIBUTION
 " AMONG HIS COLLATERAL KINDRED. The direction IN REGARD TO TESTA-
 " TOR'S LINEAL HEIRS is that '*after* the decease of my wife and *after*
 " the decease of both my daughters * * * or if my daughters shall
 " not have lawful issue, sons capable of taking under said foregoing
 " provision of my will, then, as soon after the decease of my wife and

* Opinion, p. 8.

“ both my daughters as the same can conveniently be done,’ the trustees are to divide, etc., BUT THE DIRECTION TO DIVIDE AMONG THE COLLATERAL KINDRED IS ACCOMPANIED BY THE URGENT WORDS, “ ‘ then immediately,’ ‘ then immediately,’ ‘ at once.’ ”

It will be observed, at once, that these words, in every case, refer to the *actual distribution* of the estate. They relate to the enjoyment, the possession, the actual receipt of the property from the trustees by the donees. They do not relate, as seems to be imagined, to the *vesting in interest*, in advance of the possession, in any persons at the death of JULIA. But the theory put forth is this: As to his lineal descendants, the children of his own daughters, the testator felt no especial solicitude; and no special eagerness to provide for “the comfort and “welfare of the Newberry blood,” (*Opinion*, p. 10,) as represented in them. But when it came to the collateral relatives; nephews and nieces, grandnephews and grandnieces of every degree of remoteness, born and unborn—these were the dear ones; these were the ones in whom he was eager that interests should *vest* at the earliest possible moment, though the enjoyment and possession, at least in case Mrs. NEWBERRY, took under the will, was postponed for her life. Now, what does the will really show concerning these persons?

Out of the thirty-three persons shown by the bill to be the present descendants of the testator’s brothers and sister, twenty-seven were living when this will was made. They were one and all in the same circumstances of pecuniary need then that they are now. No variation whatever has come about in their circumstances. None of them are in any different situation now from that they were in when Mr. NEWBERRY made this will, and when he died. He knew then every fact concerning them which is set forth in this bill. These eighteen claimants were in the same situation then as now, and he did what he cared to do for them. By what provision, distinctly for them, out of an estate valued at about \$3,000,000, then, did he evidence this exuberance of affection for his name and blood, as represented by them? They say it went beyond that for his lineal race, the children of his own daughters, and that his solicitude “for

"the comfort and welfare of the Newberry blood," found expression in "pressingly imperative language," confined to these "collateral kindred." By what did he show it? To the children of a nephew, HENRY L. NEWBERRY, he gave \$1,500; to a nephew, WALTER C. NEWBERRY, he gave \$5,000, less his indebtedness to the testator, and there remained about \$700, which was paid to his assignee in bankruptcy; to a niece, FANNIE L. EDGERTON, he gave \$2,500; and to another niece, Mrs. CANDEE, he gave \$1,000. With all his overweening affection for these eighteen claimants, these four legacies represent all he cared to do for any of them. In the then apparently *remote* contingency of the utter failure and extinction of his own family he provided that the public should have one-half of his estate, and his collateral relatives the rest, but he postponed the possession and distribution of his estate to them, certainly in case Mrs. NEWBERRY accepted the will, till after the death of the last member of his immediate family. As a matter of plain sense, does not this theory of a special intent of the testator, based upon special regard for these collateral relatives, bear evidence of the fairy work of imagination? Is his imagined urgency for the comfort and welfare of these particular collateral relatives consistent with his postponement of any possession or benefit till the death of the wife, as is incontestably done in case she accepted the testamentary estate? And the intent as to *vesting* is the same in one case as in the other. On this point no difference has been or can be pretended under the will, whatever may be done with the time of distribution.

The one remaining evidence from which the intention of the testator is inferred, that the estates limited over through the distribution by the trustees, should, in the event that has happened, vest in the descendants living at the death of JULIA, arises from comparison of the word "surviving," used descriptively in connection with the word "descendants," in the only clause of the will containing the gift over, with the other words "survive" and "surviving," previously used in the same paragraph. Recall the paragraph:

"In case of the death of both my said daughters, without leaving lawful issue, then immediately after the decease of my wife, if she *survive* my said daughters, but if not, then immediately after the decease of the last *surviving* one of my said daughters, my said trustees shall divide my estate into two equal shares—my said trustees being the sole judges of the equality and correctness of such division—and shall at once proceed to distribute one of such shares among the lawful *surviving* descendants of my own brothers and sisters, such descendants taking *per stirpes* and not *per capita*."

There is, in fact, another instance of the word in the ellipsis involved after the words "*but if not*." It is as if he had said: "but if either of my daughters *survive* her mother."

It is doubtless sufficient to call attention to the fact that in these first instances the words relate altogether to the *time at which* the final distribution of the estate is directed. The plain meaning of the words unqualified by any technicalities of construction, is that the division shall occur upon the end of the last of three lives—upon the death of the last of the three members of the testator's family. It is to be made upon the death of the mother, if she outlive her daughters; but if either daughter outlive the mother, then upon the death of the last daughter. The next use of the word bears no analogy to the preceding ones. Having thus fixed the time of division, the next use of the word relates to the *persons to whom* the division is to be made. It is used descriptively, and limits the word "descendants." It enters into the description of the class within which the division is directed. The time of division having been fixed, it is to be *then* made to the "*surviving* descendants;" and the grammatical, and natural, and legal reference is to the descendants surviving, and capable of receiving at the hands of the trustees, at the time of actual division.

These are *all* of the evidences upon which the over-riding *special intent* is grounded, which, in the judgment of the court below is held to have vested at the death of JULIA the interests limited over by the paragraph last quoted. The assumed facts at the foundation are simply not true; and the superstructure is the "baseless fabric of a dream." Now, let us see what indications there are that the testator *did not intend* interests to

vest by the death of any person in advance of the *actual distribution and possession*.

Can any one read the paragraph containing the gift over, and doubt that it was the intent and expectation of Mr. NEWBERRY, that the persons to receive at this distribution should take directly *under the will* by gift from him? And there is no difference made by the will in this respect, in case the widow should take or not, the testamentary provision. There is in either case one and the same gift at the distribution. Now it is conceded that if the widow had taken her testamentary provision, there could be, "in the nature of things," no distribution till her death. In such case, if the interests limited over vested at the death of JULIA, the persons taking at the distribution, receiving the estate from the trustees, might none of them take under the will, and directly from the testator. In the ordinary course of things, it is nearly a certainty that many, and perhaps most of them would not. They would take by descent as heirs, or next of kin, through executors or administrators to those in whom the interests had vested at the death of JULIA; they would take, charged with estates by dower and curtesy; they would take as vendees, mortgagees, judgment creditors, holders of *post-obits*, assignees in bankruptcy or insolvency. They might not be NEWBERRY descendants at all. We are exploring now for indications of the actual intent concerning the vesting of their interests at the death of JULIA, or at any time before the distribution; and upon this question the acceptance or revocation of the will makes no difference. Can any one believe that Mr. NEWBERRY, looking at the destitute condition set out in the bill of nearly all the members of this family, intended to vest these interests at the death of the last daughter, with the enjoyment postponed till the death of his widow, and subject them to the temptation and even necessity of recklessly anticipating their estate of uncertain enjoyment, and at the hands of usurers and speculators, sacrificing the whole for a fraction? Plain enough, if the meaning of words, and the motives of the testator are to guide us, is the scheme and intent that the interests limited over shall vest in interest, and in enjoyment at the same

time; and that he who takes at the division directed, shall take *directly under the will* by an original gift from the testator. In that event, distribution may, it is true, be made to one or another involved in *his own* debts; but there will be no children put aside by strangers, to the will and to the testator, claiming through *post-obit* bonds, or assignments.

In cases of testamentary *gifts at a future time*, where the possession of the subject of the gift is deferred, no circumstance has had more weight in determining the intent of the testator as to an *intermediate* vesting of the gift *in interest* than the intermediate disposition he has made of the income. In many instances, but not all, of gifts at a future time to specified *individuals*, as at 21, or at marriage, an *absolute gift of all the interest* in the mean time—not a mere sum for maintenance, however—has been held to indicate an intent in favor of a vesting in interest in advance of the possession. A leading case to that effect is *Hanson v. Graham*, 6 Ves. Jr., 249. On the other hand, when the income is not given, the rule, settled in all the cases, is stated in THEOBALD ON WILLS, 278, *e*, explicitly:

“*Of course*, when the interest is not given in the meantime, “*but is itself given at the same time as the principal*, the gift “*does not vest.*”

That is exactly the present case. There is no gift of intermediate income. On the contrary, it is ordered that it shall fall into the mass of the estate. The provision is set out upon page 3 of this argument. Then the only gift over to any one, is in the direction to the trustees to distribute, upon the death of the last member of the testator's family, to the surviving collateral relatives, whoever they may be. That is admitted to be so in case of the widow's acceptance of the will. The income, therefore, “*is itself given at the same time as the principal*” to the same persons, and, “*of course, * * the gift does not vest.*”

It is true, of course, that the dominant element in every will is the intent of the testator, indicated by the *meaning of his*

words. In applying the principles of construction, which, in the course of a long historical period have been established by the courts, we apply principles which are designed to aid in ascertaining that intention, and which have become established, because, in the experience of centuries it has been found that they do in fact, in almost all cases, ascertain and illustrate the actual intention. Now, in looking at the question whether any interests vested under this will at the death of JULIA NEWBERRY, the very first consideration that forces itself upon the mind is, that no interests can have vested in any one then, because *nobody is given anything then.* The only gift is to descendants surviving at the time of distribution. If, as we have said, the time of distribution could, by any effect of events, be made to concur with that of JULIA's death, still it would be not the time of the death, but the time of the distribution that would determine the donees. There is no gift at the death of JULIA and it requires no argument to establish that nothing can vest in one to whom nothing is given.

The result, equally of the words of the will, embodying the only form of gift here, and of all the authorities is that the only gift in this will is in the direction to the trustees to distribute "among surviving descendants;" and where the *only gift is in the direction to pay or distribute*, that is a future gift and is, of course, contingent, and not vested. Moreover, surviving *at the time* of distribution is a *part of the description* given by the will of the donee; and there is no gift to any one who does not *answer the description* in this element of *time*. Nothing can vest under this gift in one who is not surviving *at that time*, any more than one who is *not a descendant* of the ancestors named. Such a gift is, of course, contingent; for when the *time* arrives for payment or distribution there *may be no person* answering the description of the donee given by the will; and no one can answer that description who is not a "surviving descendant" and capable of taking at the time of distribution.

The language of Sir WM. GRANT, in the celebrated case of *Leake v. Robinson*, is already quoted at page 31, as is also that of V. Ch. MALINS, in *Locke v. Lamb*, on page 33.

In *Merry v. Hill*, Law R., 8, Eq. 619, cited on page 35, *ante*, the same V. Chancellor said:

" I had occasion in *Locke v. Lambe*, Law Rep. 4, Eq. 372, very carefully to consider the authorities upon the subject, and as the conclusion I arrived at stands unreversed, I must assume it to be sound law, as I verily believe it to be. The result of my conclusion in that case was that the rule laid down in *Leake v. Robinson*, 2 Mer., 363, is the rule of the court, that *whenever you can fairly come to the conclusion upon the construction of the whole language of the will, that the gift is to be found in the direction to pay or divide then the attainment of the age at which that payment or division is to take place is a condition precedent to the vesting.*"

In *Newman v. Newman*, 10 Sim., 51, testator devised real estate to trustees for his son for life, and after the son's death to sell and hold in trust for all his grandchildren, *naming them, who should attain the age of twenty-four years.* There were grandchildren living at the testator's death, but none born afterwards. The son claimed that the devises over were void as being too remote, for other children might be born, and the interests *could vest only at twenty-four*, and that his estate was, therefore, absolute in him as heir at law.

Sir LAUNCELOT SHADWELL said:

" In that case, and in the other cases of the same class, there was, in the *first* place, a gift to the party intended to take; and then followed the words, 'at. if or when,' that party shall attain a particular age; and it was held that those words were used merely for the purpose of pointing out the time at which the devisee was to take in possession. But in the case now before me, there is no gift, except to such of the testator's grandchildren as shall sustain the character of attaining the age of twenty-four. The attainment of that age is *part of the constitution of the character* of the original taker.

" The devise of the legal estate is good; but the person in whom it is vested, is a trustee for the heir at law."

In *Knight v. Knight*, 2 Sim. and Stu., 490, the form of the gift was:

" I likewise give and devise to each of the daughters of Thomas Knight, lawfully begotten, as soon as they attain the age of twenty-one years, the sum of two thousand pounds, with interest at

“ the rate of five per cent. per annum, and to each of the sons of the
 “ said Thomas Knight, lawfully begotten, as soon as he attains the age
 “ of twenty-one years, the sum of three thousand pounds, with interest
 “ at the rate of five per cent. per annum.”

Vice-Chancellor LEACH said:

“ The expressed intention must prevail, and there is no gift, either
 “ of principal or interest, until the daughters attain twenty-one.”

There was, in that case, no expression of intent whatever, to control, except the *form of the gift*; and yet Vice Chancellor LEACH says: “ The expressed intention must prevail.” That *form of gift* conveys the intention, and there is no gift until the time appointed.

And I wish to call attention to the point, that the principle governing in these cases is this: that the attainment of *the time appointed enters into the description and designation of the donee*; and no one can claim as a donee, unless he can predicate of himself this element of description.

In *Morgan v. Morgan*, 4 De Gex and Sm., 164, there was a direction to trustees as follows:

“ To pay over to my sister, Sarah Gyles’ two daughters, Frances
 “ Sarah Gyles and Georgiana Anna Gyles, five thousand pounds each,
 “ upon their marriage, with all the accumulations of interest thereon,
 “ from the time of my death.”

The daughter, Georgiana, died unmarried. “ The first question was whether the legacies of £5,000 each, to Frances
 “ Sarah Gyles and Georgiana Anna Gyles, on their marriage,
 “ vested at the death of the testatrix.”

Sir LAUNCELOT SHADWELL said:

“ This testatrix had a right to say that neither of these legatees
 “ should take either principal or interest, unless married. I think
 “ that she has said so, and that the will is as plain and distinct in this
 “ respect, as if she had used these words, ‘ neither of them shall have
 “ any thing unless she shall marry.’ ”

There was, in this case, no gift but in the direction to trustees to pay at a particular time, to wit, upon marriage, and there

was no language declaring an intent apart from the mere *form of the gift*.

In *Bull v. Pritchard*, 1 Russ., 213, the devise was of freehold estates to trustees to pay the rents and profits to testator's daughter for life, and from and after her decease to "convey and assure my freehold estates unto and equally between and among all and every the child and children of my said daughter, Mary Bull, who shall live to attain the age of twenty-three years."

Lord GIFFORD said:

"It is clear that those children alone of the daughter were to take, who attained the age of twenty-three years. The attainment of that age was necessary to vest an interest in any of them, and all who attained that age were to take. Consequently the vesting of the interests might not take place till more than twenty-one years after a life in being. * * * The attainment of the age of twenty-three years, is made a condition precedent to the vesting of any interest in the children."

In *Shum v. Hobbs*, 3 Dr., 98. Vice Chancellor KINDERSLEY said:

"This case comes on on the construction of a will, and the question is, whether a certain share of the testatrix' residuary estate was a vested or contingent interest. I have first to consider the precise language of the gift; and then, whether an intention to create a vested interest is to be collected from other parts of the will. Now, on the question whether a legacy or a residuary gift vests or not, there is no contest about the general rule; if the legacy is given in the first instance, and then there is a separate direction to pay at twenty-one or marriage, that is a vested interest. If there is not an independent gift, separate from the direction to pay, but a mere direction to pay at twenty-one or marriage, that is not a vested interest. * * * *

"The question then is, is this a substantive gift; and in addition to it, a direction to pay at twenty-one; or is the direction to pay at twenty-one the only gift?"

He held the gift *not vested* by force of the general rule, and upon the mere *form of the gift*; and also held that no intent opposed to the rule appeared elsewhere in the will. Certainly this is the identical case before this court.

In *Duffield v. Duffield*, 3 Bligh, N. R., 260, the testator devised lands to trustees in trust, in case there should be but one son of his daughter attaining the age of twenty-one years, then for such son and his heirs; in case there should be two or more such sons attaining twenty-one, then in trust for the second son and his heirs, and so on; in case there should be no such son, then in trust for such of his granddaughters as should first attain twenty-one, &c. At the death of the testator there were living five children of his said daughter, one infant son, and four infant daughters. Questions arose concerning the vesting of the devised estate, and the right to the rents and profits until some son or daughter should attain twenty-one under the terms of the gift. On the one hand it was claimed that the estate vested in the infant son, subject to be divested by his death or the birth of a second son, &c., and that the rents and profits belonged to that person in whom from time to time the estate might be thus vested, subject to be divested. On the other hand it was claimed that no estate vested under the devise until some one child by the actual attainment of twenty-one *exactly answered the description* of the donee in the will, and became entitled absolutely to the estate; and that in the meantime the rents and profits in the hands of the trustees belonged to the heir at law. The case came on in chancery, and the questions were stated for the opinion of the Court of King's Bench, who certified their opinion that no estate vested until some child became entitled at twenty-one; and that the intermediate rents belonged to the surviving trustee under the will, for the use, of course, of the heir at law. The Vice Chancellor, not satisfied with the certificate, decreed that the infant son took upon the testator's death a presently vested interest in fee, subject to be divested by his death or the birth of a second son, &c., and so the case came before the House of Lords. Lord ELDON there stated the situation of the case and said, page 312:

“ As the judgment stands, the eldest, though he should not attain the age of twenty-one, is held entitled to the rents and profits.

“ Upon the birth of a second son, he, according to the judgment, becomes entitled, divesting the right of the first son. If the second

“ son should die under the age of twenty-one, the right to the rents
 “ and profits shifts back again to the first son ; and there may be ten
 “ sons in existence in the twenty-one years, who may each have some
 “ enjoyment ; so, under this process of shifting the right, daughters
 “ might take before the events prescribed by the will : the age of
 “ twenty-one, or marriage with consent ; and, according to the same
 “ doctrine, the remainderman might take the estate every other year.

“ Such being the case, I have conversed with other noble lords on
 “ the subject ; and this appears to me to be a question which the house
 “ would not be justified in deciding, without calling on the judges for
 “ their opinion. It would have been a great satisfaction if I could have
 “ looked in this case only to the interest of the parties, but considering
 “ how few of these cases, upon questions of vested or contingent inter-
 “ ests, have come before this house, and that it is the duty of judges to
 “ decide questions with a view to all other persons having similar inter-
 “ ests, and affected by the same circumstances, and *saying no more than*
 “ *that I have great difficulty in acceding* to the doctrines of the judg-
 “ ment in the court below, I cannot advise the house to proceed to
 “ judgment in this case, without having the opinion of the twelve
 “ judges on the matters of law comprised in it. I therefore move, that
 “ the judges be summoned to attend, and that the cases should be argued
 “ before them in the next session of parliament.”

Accordingly the case was argued before all the judges in the House of Lords, and BEST, C. J., delivered the unanimous opinion of the judges, that *no interest vested*, except in such child as by attaining twenty-one, should *answer the description of* the devisee in the will ; and he said, page 333 :

“ It is impossible to say that the words of this will do not import
 “ *conditions precedent to the vesting* these estates. The estates are not
 “ given to *any particular children by name*, but to *such children* as shall
 “ attain the age of twenty-one years. Until they have attained that
 “ age, *no one completely answers the description which the testator has*
 “ *given* of those who are to be devisees under his will, and therefore
 “ *there is no person* in whom the estate *can vest*. It is an established
 “ principle of law, recognized by all the cases that are in the books, and
 “ founded on the nature of things, that *estates must remain contingent*
 “ *until there be a person having all the qualifications* that the testator
 “ requires, and *completely answering the description* given of the object
 “ of his bounty in his will.”

It cannot fail to be remarked how great is the weight of rea-

son and authority, which, nevertheless, failed altogether to engage the attention of the court below.

If this will the devise had been to the oldest descendant at the time of distribution of each of Mr. NEWBERRY's brothers and sister, the case would have fallen exactly within the terms of *Robertson v. Wilson*, on page 77 *post*, and *Duffield v. Duffield*, on page 67 *ante*, and the words of the Lord Justice KNIGHT BRUCE in the case of *Gregson's estate*, p. 17 *ante*. And in fact that is the *present actual* case; for the gift is to the surviving descendants *per stirpes*, and so not to all the then surviving descendants, but only to *such* of them as shall be of the oldest generation in each line of descent, and shall have no parent living of the NEWBERRY line. It is exactly analogous to what it would have been if the devise had been to the *oldest* surviving child of each of the ancestors named.

These cases go upon a "*rule of the court*;" upon a rule of construction determining the legal effect of such a *form of gift* as this in the will of Mr. NEWBERRY. Surviving at the death of JULIA is no part of the description given by him of his donees. And it is an established rule that where the only gift is in a *direction* to trustees *to pay or distribute* among *surviving* descendants, then the answering the *description* of descendants *surviving at the time that distribution is to be made* is a condition *precedent* to the vesting.

Ordinarily, it is not prudent to assert of any proposition that no case can be found to contravene it. But we have not come to this argument without a careful examination of the authorities upon this subject that may be found in the reports; and we think it is true, that no such authority exists which does not enforce the rule, established beyond further argument, that where the only gift in a will is in a direction to executors or trustees *to pay or distribute to surviving* members of a class, there is *no gift to any one* until the distribution. No one is a donee; nobody can claim anything under such a gift who cannot predicate of himself that he is a descendant surviving, capable to receive at the distribution; who cannot predicate of himself every ele-

ment of circumstance, descent and time, that enters into the description the testator has given of his donees.

Under this form of gift it is plain that nothing can vest in any one till the time of distribution. There is no gift to any one till then. Such a bequest or devise must, of course, till then remain contingent, for till then it cannot be predicated of any person that he will then be a survivor answering the description of a donee; and, moreover, it may be that then there will be none of the class surviving to answer the description, or take under the limitation over at all.

Other considerations will illustrate how impossible it is, that under this limitation over any estates can vest in interest before they vest in possession. The vesting in interest and possession must go together.

Where, in the will, there is no specific direction as to vesting, and in this will there is none, "it is important," says THEOBALD* "to distinguish a gift to a *contingent class*, and a gift to a class "upon a contingency;" for even special circumstances, such as the gift of intermediate income, that, in the latter case, namely, of a gift to a class *upon a contingency*, would tend to vest the bequest, will not have that effect where the gift is to a *contingent class*. Therefore, every consideration that would render contingent and unvested a gift to any person or class upon a contingency, will operate *a fortiori* when the gift is to a *contingent class*.

The gift over being here to survivors at the time of distribution, it is clearly impossible, until that time arrives, to say who will be such survivors. It was impossible at the death of JULIA NEWBERRY, because that event did not fix the class. If, by any proper construction, that time of distribution arrived at the death of JULIA, then the estate should go to those surviving at that time. But that is *not because* they were survivors at her death, but because they were survivors at the time of distribution. Therefore, the death of JULIA could not, in itself, operate to fix the class of distributees. If, for any reason, any interval

* Cons. of Wills, 273.

of time might come between that event and the period of distribution, then in that interval, the class might change. Some might be born, and others die. Now, it is agreed, that if Mrs. NEWBERRY had taken under the will, the distribution would be postponed till her death; and the rule for ascertaining the class of distributees is in every event the same. Then it will be observed that under this will the trustees have powers and duties to exercise and discharge after the death, even of Mrs. NEWBERRY, and after the death of JULIA, if indeed that event had any significance in the particular we are discussing. They have a first distribution of the estate into two equal parts to make, and upon the equality and correctness of that, they are to exercise a conclusive judgment. They are first, to ascertain the two shares, one for division and one for a public use. What parcels of this property ought to be assigned for the library cannot be determined now, and yet they are to determine this *before the fund or estate for distribution will be ascertained*, or in existence in a *state to be divided*. This brings the case within the decision of this court in *Jennings v. Jennings*, cited *ante* on page 28, and *Hoghton v. Whilgreave*, cited at page 27. The very site upon which they will find it most judicious to erect the library building, may be now outstanding as a part of Mrs. NEWBERRY's life estate, and so out of their control until after her death. There are elements of discretion here which they cannot execute until they have this estate in their hands. The descendants, therefore, from whom the class of distributees is to be ascertained, are continually subject to change, until the period of distribution fixes that class; and *in a short time* there may be many changes among so many persons. Therefore, the gift here is to an uncertain and *contingent class*.

Now, it is surprising that at this day, and since the universally approved definition of BLACKSTONE, there should be serious doubt as to whether such a limitation over is contingent. A remainder may be contingent by reason of uncertainty in the *event* upon which it depends, or by reason of uncertainty in the *person to whom* it is limited. The definition by BLACKSTONE, is as follows:

“Contingent or *executory remainders* (whereby no present interest

"passes), are where the estate in remainder is limited to take effect, " either to a dubious and uncertain *person*, or upon a dubious and uncertain *event*, so that the particular estate *may chance to be determined*, " and the remainder *never take effect*."

Contrasting this definition with those of FEARNE and others, Chancellor KENT says:* " It far surpasses them all, if we take " into one combined view its perspicuity, simplicity, comprehension, compactness, neatness, *accuracy, and admirable precision*. " I have read the chapter frequently, but never without a mixture of delight and despair."

Now, upon this definition, we beg it may be understood, *we rest*. But the counsel for the appellees have relied upon a declaration of FEARNE, that: " The present capacity of taking " effect in possession, if the possession were to become vacant," is the distinguishing element; and they refer to the cases of *Doe v. Considine*, 6 Wallace, 476; *Van Dyke v. Vanderpool*, 14 N. J. Eq., 204; and *Williamson v. Field*, 2 Sand. Ch., 533, where this language is quoted, and say the orators here would take if Mrs. NEWBERRY were to die now. But they argue this case as if there were here, in analogy to those cases, a gift to HENRY W. NEWBERRY and WALTER C. NEWBERRY, and the other orators *nominatim*, at the time of distribution. But that is not so. The gift is to "surviving descendants," &c., at that time, and these orators may not be then surviving. It may be true that if she were to die now they would take; but on the other hand, if she does *not* die *now*, they *may not take*. *They* have no present *assured* capacity to take *whenever* she may die. If she were to die now they would take, not because there is a direct gift *to them* in the will, but because they would *by her death have become* the "surviving" descendants appointed in the will; because they would thereby have come to answer a description, which *now they do not answer*. It should not be lost sight of, and I call attention to the point that the contingency that infects this devise, is that of uncertainty as to the *person to take*, not as to the *event upon which* any one is to take.

Now, look at these cases of *Van Dyke v. Vanderpool*, *Wil-*

* 4 Com., 208, n. a.

Williamson v. Field, and of *Doe v. Considine*. They are directly in the teeth of the proposition they are cited to support; and they show that the language of FEARNE does not apply, and was not intended to refer to a case where the uncertainty lies not in the *event*, but altogether in the *person* involved in the gift. It is used by FEARNE in speaking of cases where the PERSON is *ascertained*, who has a *right* to the property, *fixed to remain* in him, but where the event upon which *enjoyment* depends is uncertain. When the *person* is ascertained to whom a gift is made, the enjoyment may be contingent—dependent upon an uncertain event. But when the *person* is *uncertain*, the *right* to that enjoyment is contingent; and that is the present case. In *Van Dyke v. Vanderpool*, the testator *severed from his estate and set apart* the funds—\$5,000—in question; and this circumstance was relied upon by counsel and the court, as tending to vest the gifts made of it. But in that case the direction was, that in case M. V. D. G. should die, leaving no child or grandchildren, the executors should “pay over the said sum to *James Vanderpool, William Vanderpool and Maria Van Dyke, and their heirs and assigns*.” There is no direction here, however, to pay to WALTER C. NEWBERRY and HENRY W. NEWBERRY, and *their heirs and assigns*. In that case the court used the above language of FEARNE,—qualifying it, nevertheless, by introducing “the word *ever*,”—but used it in the connection and sense in which FEARNE used it. The court said:

“Where the contingency is *not in the person*, but in the *event*, or in the time of the enjoyment, the interest is vested. It is the present capacity of taking effect in possession, if the possession should EVER become vacant, not the certainty that it ever will become vacant while the remainder continues, which distinguishes a vested from a contingent remainder. In the former, the *enjoyment* only is uncertain—in the latter, the *RIGHT* to that *enjoyment*. *Williamson v. Field*, 2 Sandf. Ch. R., 553. A legacy given at or after any future specified period or event is *not vested*, and the legatee's *right* to it *depends upon his being alive at the time fixed* for its enjoyment. 2 *Williams on Executors*, 1052, 1057.”

In *Doe v. Considine*, the testator gave the use of an estate to his son, John M. Barr, for his life, and in case he should die leav-

ing issue, then the use to his wife, Maria Barr, for *herself and the child or children* during her life. Upon the decease of the survivor of John and Maria, he gave the estate itself *to the child or children* of the said John, *and their heirs forever*. In case of the death of John *leaving no issue*, he gave the estate over to his three sons-in-law, naming them.

Now, this son John had one daughter, Mary Jane, *living at the death of the testator*; and John died leaving her, but she died before her mother, who had the use for her life. Upon the death of the mother, the estate was claimed, on one hand, by the sons, through the above named sons-in-law, under the will given over. On the other hand, it was claimed by the heirs of the testator's brothers and sisters, setting up a vested estate in the daughter, Mary Jane, which passed to them by the rules of descent.

The question, then, was an estate given not to uncertain persons, but to *certain and ascertained* persons, namely, the child or children of M. Barr. So the court expressly held :

Justice SWAYNE, said, p. 478 :

" Mary Jane Barr was, at the death of the testator," (she was living then,) " within every particular of the category which creates a vested remainder.

" The person to take was *in esse*.

" She was *ascertained and certain*.

" The estate was limited *to take effect in her absolutely upon the death* of her father. * *

" She had a fixed *right* of enjoyment on the death of the deviser.

" The *period* of enjoyment only was deferred and *uncertain*.

" The time of enjoyment *in possession* depended upon the death of her mother. The *RIGHT* was in nowise dependent on that event. " * *

" A vested remainder is where a *present* interest passes to a *certain and definite person*, but to be enjoyed *in futuro*. (p 474.)

" A contingent remainder is where the estate in remainder is limited *either* to a dubious and *uncertain person*, or upon the happening of a *dubious and uncertain event*.

" When a remainder *is limited to a person in esse and ascertained*, to *take effect by express limitation on the termination of the preceding particular estate*, the remainder is unquestionably vested." (p. 476.)

It was in such a case as this that the court used the language quoted, and relied upon in the opinion of the court below. The donee was not uncertain, but a definite and *ascertained person*, living at the death of the testator. "The estate was directly limited "to take effect *in her absolutely* upon the death of her father." In her case it was the *possession* of the estate, not the *right* to it, which was uncertain. The possession was deferred till the death of her mother, but the ownership, the *right* to the estate, was already established "*in her and her heirs forever.*" Is there any analogous gift here, as, for example, to WALTER C. NEWBERRY and *his heirs forever*, at the death of JULIA? The court said: "It is the uncertainty of the *right* of enjoyment, and not "the uncertainty of its *actual* enjoyment, which renders a remainder contingent." But what is it that is uncertain in a gift to a contingent class, if not the *right* of enjoyment? What we have in such a case is a *contingent donee*. And where shall we go for authority that such a gift is contingent, if not to these cases of *Van Dyke v. Vanderpool*, *Williamson v. Field*, and *Doe v. Considine*? They are all to the effect that, where the *right* to the estate is *absolutely fixed* in a definite and *ascertained person*, then the fact that the *possession* is deferred or even *uncertain*, does not prevent the estate being vested; but that the uncertainty which *does render* an estate *contingent* is uncertainty of the *person having the right* to it, and not uncertainty as to the actual possession. In this connection is used the language relied on by counsel and the court below. The cases expressly assert that when the uncertainty relates to the *person who is to take*, the gift is of course *contingent*. One looks in vain in the opinion of the circuit court for the language associated with the phrases quoted, or for any statement of the cases and of the circumstances in which those phrases were employed.

There remains the other case of *Williamson v. Field*. The case is long and complicate; but I will try to state the important part of it clearly. The bill was brought by the children of Thomas B. Clarke, living at his decease, against the executors and trustees of Moses Field and his devisees. Its object was to

redeem, in 1842, from a mortgage made by this Thomas B. Clarke, and which had been foreclosed in 1820, in a suit to which his children were not parties. Moses Field was purchaser at the foreclosure sale. The right to redeem depended on the construction of the will of the grandmother, Mary Clarke. She had limited, through trustees, the use of the premises in question to said Thomas for his life, and the estate itself, at his death, to his lawful issue then living. He died in 1826, and the children who brought the bill to redeem were living when he made the mortgage, and when the premises were sold under foreclosure, but were not parties.

It was contended by the defendants, that the children of Clarke, then *in esse*, were not necessary parties to the foreclosure, because they had, at that time, *no estate or interest* in the land, vested or contingent. On the other hand, it was insisted that these children had vested remainders in fee, which could not be barred by a foreclosure to which they were not parties.

The case was placed by the court squarely upon the ground that the limitation to these children *in esse* was to persons definitely *ascertained*, having a fixed *right*, and that nothing was uncertain but the deferred enjoyment. The correctness of this *premise*, in the particular case, may well be doubted, but whether it was correct or not is immaterial, for the fact remains that the language cited and relied upon here was used in a case where that premise was assumed as the basis of it.

The Assistant Vice Chancellor said, p. 549 :

“ My first inquiry, therefore, is, *what was the estate, interest, or right which the children of Clarke* had in the property in controversy at the time of the foreclosure of Mapes and Oakley’s mortgage. * *

“ A vested remainder ” (p. 552) “ is one by which a *present* interest passes to the party, though to be enjoyed in future, and by which the estate is *fixed to remain* to a *determinate person* after the particular estate is spent. He has an *immediate fixed right* of future enjoyment.

“ A remainder is contingent when it is limited to take effect on an event which may never happen, or which may not happen till after the preceding particular estate ends, or is *limited to a person* not in

“being, or not ascertained. Now, in this case, the event was certain, for T. B. Clarke was certain to die. The person was determinate as soon as a child was born to him.”

“It is the present capacity of taking effect in possession, if the possession were to become vacant, not the certainty that it ever will become vacant while the remainder continues, which distinguishes a vested from a contingent remainder. In other words, in the former, the enjoyment is uncertain; in the latter, the right to that enjoyment.”

The case rests on the ground that the person was ascertained who had the right of enjoyment fixed to remain in him; and yet the court held the estates were vested in these children at the time of foreclosure, not absolutely, but subject to be divested in case of their death before the period of actual possession, namely, the death of the father, Thomas B. Clarke.

Now, all these cases went expressly on the ground, that in them, the gift was to a certain and ascertained person; and they all assert that if the element of uncertainty had attached to the person to take, the estates must have been held contingent. Is it not a perversion of these cases, to thus advance a detached phrase or two in a case wherein the distinctive element of uncertainty is that of the person who will have the right to take? In all these cases, the questions were not, what was the class, or who were the persons to take, but at what time did certain persons take. Such, also, was the case of *Phipps v. Ackers*, where the gift was to the testator's godson, an ascertained, not an uncertain person, at 21. It is of this very case that the Lord Chancellor, HATHERLEY, said, in *Williams v. Haythorne*: “A number of cases have been cited, such as *Phipps v. Ackers*, where the question was, not what was the class, but what was the age at which the gift was to vest? That class of cases throws no light on a case where the question is, not at what time the gift is to be vested, but who are the persons constituting the class in whom anything is to be vested?”

Now, for illustration, look at a case wherein the element of uncertainty related to the person to take. In *Robertson v. Wilson*, 38 N. H., 48, the testator devised the land to his son, Jere-

miah Eastman, for life, with remainder, after the death of Jeremiah, "to his oldest son *that might be then living*, and his "heirs forever." Edward M. Eastman *was the oldest son of Jeremiah, and survived his father*. But during his father's lifetime, he made deed of his interest under the will. The validity of this deed came in dispute between the grantee and creditors. As a contingent remainder could not be conveyed by deed, the question was whether the remainder was vested so that the deed could operate upon it.

Ch. J. PERLEY said :

"The event, upon which the estate of Edward M. Eastman was to take effect in possession, to wit, whether he outlived his father, was, therefore, uncertain; and the *person who* would be entitled to the remainder was also *uncertain*; for *until the death of Jeremiah Eastman, it could not be known who would be his oldest surviving son*."

So the remainder was held contingent, and the *deed inoperative*. Nevertheless, during the whole period between the death of the grandfather, who was the testator, and the death of the father, the life-tenant, during which period the deed was made, the limitation had "the present capacity of taking effect in possession, if the possession had become vacant" in Edward M. Eastman, the grantor in that deed. At any moment, if the death of the father had occurred, he was then ready to take absolutely. Yet the remainder was contingent, and the deed inoperative, *because* he had not a *right assured to remain* in him, to take *whenever* the father might die. When that time should arrive, he *might* not be "the oldest surviving son," which was the *description* of the donee.

There is a quality which must inevitably render a remainder contingent involved in the last clause of BLACKSTONE's definition, viz: "So that *the particular estate may chance to be determined*, and the remainder *never take effect*." In this case the whole estate is vested in trustees until the distribution, whenever that may occur. It is that trust estate which is the particular estate here. That supports all the remainders limited at the

distribution. Into that fall all the interests, bequests, or estates which may fail or lapse in the meantime. If, therefore, by the death of Mrs. NEWBERRY, the period of distribution may arrive, and the particular estate determine, and the remainder never take effect for want of any descendants living at that time capable of taking, then the remainder is of necessity contingent. And this may happen. Whether it is probable or not, is in law altogether immaterial. If it may by possibility happen, the remainder is contingent, and not vested. It is distinctively the *possibility* that a remainder may never take effect, which renders it contingent. Nor is this so very improbable. Observe what happened in *Marriott v. Abell*. There was a limitation to eight persons, all *in esse*. Before the time of distribution, they were all dead. In *Cambridge v. Rous*, the limitation was to seven, and they all died before the distribution. Think how soon the family line of this testator has become extinct. By the bill, it appears that of one brother of the testator, HENRY, but six descendants exist. Of another brother, AMASA, but six descendants exist. Of his sister, Mrs. EDGERTON, but three exist, and of those two are aged and infirm, and one is a child. Pestilence, or any of the not infrequent casualties of life might bring it about that there should be no one answering the description in this will, to take at the distribution. In any event, that is the legal possibility; and for that reason the remainder is inevitably contingent. To that we submit there *can be no answer*, unless it can be shown, not merely that the estates limited to the daughters have failed, but that the *time of distribution appointed* in the will *has already* arrived.

All the elements of contingency inhering in the definition of BLACKSTONE, inhered originally in this remainder over. The death of the daughters without issue ascertained an *event* that was dubious and uncertain. But the element of a dubious and uncertain *person* still remains. The class to which the gift is made is still contingent and unascertained, and the remainder *may* yet never take effect for want of any survivors at the time of distribution. The contingency attending this remainder was not alone the death of the daughters without issue; nor is it

now the death merely of Mrs. NEWBERRY. That is sure to be certain, but the *time* of it is uncertain, and so whether these persons will be members of the class to whom the gift is made is uncertain, and must remain uncertain until that event. That event enters into the description of the persons to take. Therefore, it is to a contingent class that cannot be otherwise determined. The contingency now is as to who will compose the class of survivors at the time of distribution.

We have demonstrated, therefore, as we think, that the first condition is not correct; that no interests vested in anyone at the death of JULIA NEWBERRY, and that no interests can vest in any one until the time of distribution. We turn then, to their second thesis, namely, this, that by Mrs. NEWBERRY's rejection of the testamentary substitute offered for her estate, the period of distribution was advanced, by virtue of the legal doctrine of the "acceleration of remainders." We have to see, then:

WHETHER, BY THAT EVENT, THE TIME OF DISTRIBUTION WAS ACCELERATED.

What is that doctrine of the acceleration of remainders? It is simply that where an estate is given, as to A for life, with a direct remainder to B, the remainder will take effect upon the determination, by any cause, of A's intermediate estate, *unless* a contrary intent appear in the will.

It is stated in the case of *Full v. Jacobs*, L. R., 3 Ch. Div., 711, and the language there used is quoted in the opinion of the circuit court. The doctrine is:

"That a gift to A for life, and from and after the decease of A, to B, C, D, or anybody else, means from and after the *determination of the estate*. And whether the estate is determined by revocation or by death, or by the incapacity of the devisee to take, or by any other circumstance, the life estate being out of the way, the remainder takes effect, having only been postponed in order that the life estate may be given to A."

There is of course no arbitrary rule that a remainder limited

after the death of a life tenant, means after the determination of the estate. It is a question of intent, and the meaning of the testator's words, and is a rule of construction applied when some such rule is necessary to give effect to the testator's intention.

There need be no controversy over this rule or doctrine; but the difficulties in the way of its application here are insuperable.

In the first place, many necessary parties are not before the court. As the gift of this will is to descendants surviving at the time of distribution, it is plain that any advance or change of that time would probably operate to *change the donees*, or persons to take under the will. It is hardly possible but that, at the death of Mrs. NEWBERRY, the class to take will be different from what it was when JULIA died. The bill in this case shows now *in esse*, sixteen descendants of the ancestors named, who are not made parties to this bill; and all of these are infants. Any and all of these may come to answer the testator's description, and prove to be donees if the distribution be made at the time appointed by the words of the will. None of them are donees if that time is moved forward to the death of JULIA. Now, when in a cause it is to be determined *whether* they may be entitled to participate in the distribution of such an estate as this; or whether, as between them and the claimants in this bill, the right to share is *confined to the claimants*, and to their exclusion, we submit that upon every consideration of fairness and equity, they should be made parties, and have opportunity to be heard. All of them are infants. They should be heard upon the question whether they, in common with the claimants, have contingent interests in this fund, or whether the claimants have vested interests, and they none at all. It is because they are not parties that the defendant trustees have been compelled to present some of the considerations which show, that judgment ought not to be rendered against them, and that *ex parte*. A judgment so rendered will not, and ought not, to conclude them, nor will it protect the trustees who act upon it from future suits when the time for fixing the class of

distributees, which is appointed by the plain words of the will, arrives.

In *LEWIN* on Trusts, it is said, p. *368, that "whether the trustee be plaintiff or defendant, *he should take care before an order is made that all parties who have any color of title are before the court*, for if the trustee fail in his duty to point out the proper parties, it might be held that *the order of court under such circumstances did not indemnify him.*"

"Thus, if a person is in being, claiming under a limitation by way of executory devise, not subject to any preceding vested estate of inheritance by which it may be defeated, he must be made a party to a bill affecting his rights." Story Eq. Pld., § 147.

In a suit for the construction of a will, the executors or trustees may be the representatives of persons *not in esse*; *Lorillard v. Coster*, 5 Paige Ch., 172; but probably not of persons who *are in esse*, and may be before the court. See language of WALWORTH, Chancellor, in *Wood v. Wood*, 5 Paige, *602.

In *Madison v. Chapman*, 4 K. & J., 714, a question was, whether the interests given by the will to the testator's two daughters were vested or not. Both had died, and one had left a will. Sir W. PAGE WOOD said:

"This point * * is *not one to be determined in the absence of the persons claiming under the daughter's will.*"

In *Sears v. Hardy*, 120 Mass., 524, the will being ambiguous, it was claimed that there was a possible limitation of the estate to the testator's collateral relatives unless there was an intestacy.

GRAY, Ch. J., said:

"The question which lies at the threshold of the investigation of this case, and the only one which the court has yet considered, is whether all the parties, who are interested in the subject matter of the suit, and may be affected by the decree, are before the court, so that complete justice may be done and future litigation avoided.

"Who shall be made parties to a suit in equity cannot always be determined by definite rules, but rests to some degree in the discretion of the court. Generally speaking, however, to a suit against trustees to enforce the execution of a trust, *cestuis que trust*. claiming present

"interests directly opposed to those of the plaintiff, *should be made parties*, in order that they may have the opportunity themselves to defend their rights, and *not to be obliged to reply upon the defense made by the trustees*, or to resort to a subsequent suit against the trustees or the plaintiff, or to take the risk of being bound by a decree rendered in their absence.

"In a common suit for a debt or a legacy, the executors, indeed, sufficiently represent the estate. (Story Eq. Pl., § 140, note.) And if the present suit were brought merely to compel the application of part of the income of the trust fund to the support and education of the plaintiff, it might not be necessary to join as parties those who might claim to be residuary legatees. (*Dandridge v. Washington*, 2 Pet., 370.) But the scope of this bill is much wider, and affects the bulk of the estate.

"Upon this question, justice requires that the latter should have opportunity to be heard. Their claim being in direct opposition to the right asserted by the plaintiff, could not be tried by joining them as co-plaintiffs with him in this bill. (*Cholmondely v. Clinton*, 2 J. & W. 1, 135-137; 4 Bligh, 1, 81, 123; Turn. & Russ. 107, 116. *Fulham v. McCarthy*, 1 H. L. Cas., 703. *Bartlett v. Parks*, 1 Cush., 82, 86.) But we have grave doubts whether they are not necessary parties defendant to this suit, and whether, if they are not necessary parties, a decree in favor of the plaintiff would be conclusive upon them so as to prevent their hereafter bringing suit against him or against the trustees; and we are satisfied that it is at least within the discretion of the court to allow them to be made parties, and to decline to enter upon the consideration of the merits of the plaintiff's claim until they have had an opportunity to be heard, either by summoning them in as defendants in this case, or by the trustees filing a bill for instructions in the execution of their trust, to which all possible claimants of the residue of the estate may be made parties."

To illustrate how important this question may be to some of the persons now *in esse*, we call attention to the situation of one of them, shown in the affidavit filed in the court below in support of the motion, made and overruled there, that further parties might be directed to be made here, as was done in *Sears v. Hardy*. The testator left three brothers and one sister, Mrs. LOUISA EDGERTON. Along the line of descent from her will pass one-fourth of this whole property that is to be distributed. She has left two children, one a maiden lady in very infirm health, and about sixty years of age. The other is OLIVER N. EDGERTON,

one of the claimants here, shown by the bill to be infirm and in feeble health, and in the neighborhood of sixty years old. He is the father of MAY EDGERTON, an infant, sixteen years of age; and the bill avers "that he is poor, and without means *to suit-ably maintain and educate his daughter MAY.*" It appears, however, that eleven years ago her mother was granted a divorce and the custody of this child, under circumstances involving inevitable alienation; and since that time he has made no provision for her, and so far as he is concerned, she is destitute and helpless in this world, and likely to remain so. If, then, this property is now distributed by the court among these orators, the chances are this child will never receive one penny. If, on the other hand, this property belongs to those who are survivors, taking *per stirpes*, at the time when the distribution is appointed, then, if these two persons, aged and infirm, should die before Mrs. NEWBERRY, *one-fourth of this whole fund to be distributed will belong to this child, who is not even a party to this bill;* though having a distinct and adverse interest to the construction sought by it. It is manifest that, so far as she is concerned, the operation of the rule would be disastrous. It would be profoundly wrong to imagine for a moment, that the only interest at stake upon this issue is whether or not these claimants shall be kept out of property, which is their own, until the death of the testator's widow. The issue is to determine *who owns* the property; and upon that issue hangs the fate of persons not before the court; the whole vast difference to MAY EDGERTON between opu-

lence and hopeless poverty. Let me go further. There is a legacy given in this will of \$5,000 to one of these claimants, WALTER C. NEWBERRY. Deducting from it his indebtedness to the testator, the balance of that legacy, about \$700, was paid to his assignee in bankruptcy. This question would assume great importance if that assignee in bankruptcy were urging here, upon this doctrine of the acceleration of remainders, that one-eighth of this property ought to be given to him; and, on the other hand, the infant children of WALTER C. NEWBERRY, entitled to plead the provisions of this will, and that under its terms the ownership of this property was in those who could

answer the description of the donees at the time of the distribution, were not allowed to be heard as parties. That is the position of the trustees in this situation. There is *no averment in this bill* that these claimants have not assigned, or parted with their respective interests by operation of law or otherwise; and a decree of distribution on this bill without other parties, would leave these persons, whose names appear in this bill and many others, perhaps, not concluded, "so as to prevent their hereafter bringing suit against " the trustees." (*Sears v. Hardy*.) A few individuals out of the number *in esse* who may possibly be members of the class entitled to share in the distribution of this fund, when the time arrives, present a bill to compel a present distribution to them; and they make none of those persons parties who *represent the other side of the question which the court is asked to determine*. The court is asked to direct these trustees to pay over money when other persons stand in the same position, and are just as likely to be eventually entitled to this money as those who are the orators in this bill. We think the court can make no decree that will *certainly* protect them, unless these other persons are parties, and have an opportunity to be heard.

There can be no operation of the rule here in any event. It is for the reason that in limitations over to a contingent class, to persons who are to be ascertained only at a future time, the effect would be to *change the donees*, that the rule is express, that even in an otherwise proper case, if the other difficulties were removed, there can be no acceleration of a *contingent* estate. THEOBALD, Con. of Wills, p. 450, states the rule, and cites the cases of *Jull v. Jacobs*, L. R., 3 Ch. D. 703, and *Lainson v. Lainson*, 18 B. 1, 5 D. M. & G., 754, and other cases relied upon for the orators, and then he says:

" But where a remainder is limited after a contingent interest, there " is an intestacy until it is ascertained whether the contingent interest " will take effect or not."

Where, then, there is a remainder, *limited after* a contingent interest, the remainder cannot be advanced or accelerated, and

there will be an intestacy until it is ascertained whether the contingent interest will take effect or not. Why? Simply for the reason, that where there is a contingent interest intervening between this remainder and the estate that has failed, the contingent interest cannot move up, and therefore the remainder behind it cannot move up. To that effect is the case of *Wade Gery v. Handley*, 1 Ch. D. L. R. 653, and the case of *Carrick v. Errington*, 2 P. Wms., 361.

In these cases, if it had been allowed, it would have operated to *change* the donees under the will. It would, in such cases, operate to *ascertain* a class or a person before that *uncertain*, and to be otherwise ascertained. It would operate by itself to vest an interest before that unvested; whereas, its only lawful effect is to advance in time an already vested interest. Acceleration is impossible, when the *time* of the gift *enters into the description* of the donee. *Letchworth's Appeal*, 30 Penn. St., 175; SMITH on Ex. Interests—Supplement to FEARNE, 281. It would import into the description a different time from that given by the testator, and *change the description* of the donees. The sphere of the doctrine is very limited in our inquiry here; for it is to be confined to an already vested interest in an ascertained donee. It has no force in an investigation to ascertain *who* is the donee, or *whether* a given person, or class is a donee at all.

A vested interest may sometimes be accelerated; but acceleration cannot be employed to *fix* an otherwise uncertain *class*, and so to *vest* an interest which must *first be vested* as a *condition precedent* to its being accelerated at all.

Where, among all the cases of acceleration cited, is there ONE in which the *death* of a person, being appointed to determine a contingent class of donees, that class has been held ascertained, not by the death, but by the renunciation, or failure in any way of a legacy or devise to that person? At least *one* authority should be adduced, if so novel a judgment is to be invoked.

In the next place, the principle of acceleration finds no room here, under even the broadest statement of it in *Full v.*

Jacobs, because we have here no such life estate, and no such remainders as are there spoken of. Can it be pretended that there is here a devise of *this estate* to Mrs. NEWBERRY for her life, and a *direct* remainder to *specified persons*, "B, C, D, or anybody else"? Is there a direct remainder to OLIVER N. EDGERTON, MARY LADUE, or HENRY W. NEWBERRY? Quite the contrary.

We have a gift to Mrs. NEWBERRY of an annuity, and of a residence lot for her life, with express provision that *upon her death or failure to take for any cause*, it shall *revert to the mass of the estate* for the general purposes of the will. It is not given in remainder to these orators. Such is the express provision—that whenever any person, who has been appointed the recipient of a gift, becomes incapable of taking, as she became incapable of taking by renunciation, such gift shall *revert and sink into the mass* of the estate.

There is no remainder, therefore, limited directly to any of the orators in this bill at the death of Mrs. NEWBERRY, even of the property given to her. Under the administration of the general trusts of this will, these persons, or some of them, may eventually get a portion of the general estate; but there is *no remainder over to them* of the property given by this will to Mrs. NEWBERRY.

There is no such life estate, nor any such remainder here, therefore, as creates a case wherein the principle can be applied. Every case of acceleration cited to the court, is one where the identical estate limited first for a life, is given over in direct and immediate remainder to specified persons.

In the next place no precedent estate has failed upon which any remainder is limited. Consider what estates we have here, precedent to the ultimate remainders, which it is said are now accelerated.

There is first the trust estate. That includes the reversion expectant in the dower lands, which, after the death of the dowress, and not before, will be subject to the distribution. The testator vested this estate in trustees *until the appointed time of*

distribution. Now, no estate has failed in the property vested in the trustees. That estate continues till the time appointed by the *words of the will*; and the words of the will are, till the distribution after the death of Mrs. NEWBERRY. See the emphatic statements of the courts in the cases, cited on pages 42 to 44, of *Roe's Ex'rs v. Roe, et al.*; *The Estate of Mathew Delaney*, and *Plympton v. Plympton*. Bear in mind that the "doctrine" of acceleration cannot be counted upon to *determine* any estate. The failure of some estate prior to the remainder, is a *condition precedent* to the operation of the principle of acceleration. Acceleration may occur to a remainder after a precedent estate has failed. But this principle cannot first extinguish the prior estate, and then advance the remainder. While a principle of law may move up a remainder when the earlier estate is gone, still no principle of law ever did extinguish the first estate, in order to move up the remainder. Since the doctrine of acceleration has not defeated the estate vested in trustees, that still remains. No estate has failed in the property limited to them.

A *second* precedent estate to the ultimate remainder is the statutory dower interest of the widow, which the testator found inhering in his estate when he came to make his will. But this estate has not failed, the widow is still in the occupancy and enjoyment of it; holding it where it can neither be accelerated nor divided. Certainly no doctrine of acceleration can extinguish that precedent estate, either. Moreover, when it ends, the reversion will fall into the mass of the general estate and fund for division, after which one-half of the general estate is to be distributed as directed by the will. There is no remainder, therefore, to the claimants, limited upon this estate, even if it had failed.

A *third* estate anterior to the ultimate remainders was proposed by the testator to his widow as a substitute for her dower estate. It consisted, substantially, of the testator's homestead, for her life, and an annuity of \$10,000. By her election to retain her statutory estate, she became incapable of taking the testa-

mentary one. But no remainder is limited over of that fund, or property to these claimants or anybody else. It reverted, when she became incapable to take it, to the mass of the estate, and merged in the general trust estate until the time of division. Therefore, no estate failed here upon which any remainder was limited to any one.

It is plain, therefore, that the only precedent estate upon which any remainder is limited to any one, is the estate vested in trustees until the appointed time of distribution to persons unascertained till then. But that precedent estate has not failed unless the period of distribution has arrived. The period of distribution has not arrived unless the principle of acceleration has brought it on. The principle of acceleration has not brought it on, unless that principle may be relied upon not only to move up the remainder when a prior estate has failed, but also to destroy the prior estate; which is absurd. It is the remainder, not the destruction of the prior estate which is accelerated when anything is so. That trust estate must remain as the testator created it, for the protection of the unascertained class of persons to whom the remainders upon it are limited.

The next difficulty in the application of this doctrine is, that *the property* claimed by the orators is not *the* property in which the testamentary life estate is created at all. They propose to accelerate the whole estate—three or four millions of real estate, and a million or so of personal property, in which no interest whatever is given to her by this will—because her interest determined in an annuity of \$10,000 and a residence lot on the corner of Rush and Ontario streets.

Suppose a devise of Blackacre to A for life, and a remainder at his death to B; and a devise of Whiteacre to X for life, with a remainder at his death to B, and by renunciation or other cause, A's estate fails in *Blackacre*. Is B's remainder accelerated as to Whiteacre also? There is no remainder, to these claimants, succeeding Mrs. NEWBERRY, either in time or in the subject matter of the estate. As to the bulk of this property, the prior estate is vested in trustees, *until the time of distribu-*

tion fixed in the will; and into that estate the property given her falls, if the gift to her fails for any cause.

It is absurd to suggest that the annuity is "a charge" upon the whole estate, equivalent to a *limitation of the whole for life*. If it were a "charge" upon the *corpus* of the estate at all, it would be satisfied, as in *Sears v. Hardy*, 120 Mass., 543, by setting apart the sum of, say \$200,000, invested as directed by the will. This would be as simple a process as the assignment of dower under the statute, and as in *Sears v. Hardy*, would discharge the rest of the estate.

In reply to this proposition that the principle of acceleration must, of course, be limited to the fund or property in which the precedent estate has failed, we are referred to certain cases where the use and income of an estate was given to one for life, as the rental and profits of land, or the income of a fund, and a remainder was accelerated, not merely of the income, but of the capital. But such cases perfectly illustrate the point we insist upon. What is a gift of *land* for life with a direct remainder, but a gift of the use and income of it? The same is true of a limitation of any fund or estate. The life tenant takes but the use. So far as a life estate is concerned, the estate and the use are one. Conversely, it is held that "a gift of the produce of a fund is a gift of that produce in perpetuity, and is consequently a gift of the fund itself." Roper on Leg., *1477. A gift of the produce for life is a gift of the fund for life. In *Blanchard v. Brooks*, 12 Pick., (29 Mass.), *63, Ch. J. SHAW said: "The gift is of the income and interest; but when applied to real estate, and *given for life*, such a gift is deemed and construed to be a *gift of the estate itself*."

In the light of this rule, look at the cases cited in the opinion of the learned judge in the court below, to show that the acceleration is not confined in extent to the estate first limited. In *Lainson v. Lainson*, 18 B., 1, the rents of certain lands were given to John Lainson for his life, and a remainder in the same lands was given over at his decease. The gift of the rentals to John failed, and the remainder took effect; but the land

given over in remainder was the same whose rentals were given to John for life.

In *Eavestaff v. Austin*, 19 B., 591, the gift was of the interest of a fund for life, and remainder in the principal. The gift of income was revoked, as in *Lainson v. Lainson*. The remainder in the fund took effect, but it was the same fund, *and no other*, the entire income of which had been first given for life.

In the case of *Yeaton v. Roberts*, 8 Foster, 459, testator had given to his wife by will the use of a part of his estate, real and personal, during her natural life, then to go to the children of Oliver Yeaton and Leavitt H. Yeaton. The widow renounced the will, as in this case, and claimed under the statute; and the remainder took effect in the same property given to the wife for life, and renounced by her, and in nothing else.

In the case of *Waddle, Admr., v. Terry et al.*, 4 Coldwell (Tenn.), 51, the will gave the widow *one-half* of the real estate for life, with remainder to the son, *if he survived her*. The other *one-half* was given to the son, with remainder to the wife, *if she survived him*. Then there was a gift over, *after death of the wife*, of certain proceeds of crops, if the son should die *before majority and without issue*. The wife, therefore, had *given to her by the will*, one-half the estate in any event, and in case she survived her son, *the whole estate for her life*. She renounced the will, and the *son died before majority and without issue*. Upon these *combined* facts, the *death of the son*, and the *renunciation* of the widow, the *direct* remainders over to *specified persons* took effect. But it must be observed that the renunciation of the widow disabled her from taking not alone the half *directly* given her for life, but also the *other* half which was given her for life upon the *death of the son*. In case of his death, which happened actually, the gift to the widow was of the *whole estate for life*; and her renunciation allowed effect to the remainders in *no more property than* was, in the actual event, limited first to her for life by the will. We submit, therefore, with great respect, that the learned judge below misapprehended the facts of this case, and that the statement in the opinion is hardly accurate, that "the renunciation of *the one-half* by the widow ac-

"celerated the *whole estate* to testator's brothers and sisters, the "son having died before majority and without issue."* When the widow renounced, she gave up not only the half given directly to her, but also the *other half* given her upon the death of the son. *Upon his death* the whole estate, up to that time held by him, went *then* in remainder.

In the case of *Armstrong, Admr., v. Park's Devisees*, 9 Humphrey, 195, testator had, it is said, "*charged his estate* with an annuity for the benefit of the widow, the estate so encumbered "at her death to be disposed of by the executor; the widow "dissented from the will, and it was held that *the estate* passed "to the devisees, discharged of the incumbrance."*

The inference, it seems to us, might be, from this statement, that the testator had made an annuity to his wife a charge upon his whole estate, and that, by her renunciation of the annuity, remainders were *accelerated in the whole estate*. The facts of that case were, however, that the testator, giving his wife an annuity of \$1,000, to be paid by his executors, said: "and in order to give "them the means of doing so punctually and without failure, my "executors are hereby directed to set apart the sum of \$20,000, " * * which said sum of \$20,000 shall be loaned and continued by my executors at interest, and *remain a permanent fund during* the natural life of my said wife * *." The will made various dispositions of other parts of the estate in behalf of other persons, and provided for other like "permanent funds" for other persons. The widow renounced the will, and took under the statute.

The court in its judgment passed specifically upon the effect of the renunciation upon this "permanent fund." On page 203, the court said:

"The fund of \$20,000. directed by the will to be set apart by the "testator's executors, out of which to pay the annuity, remains an "integral part of the estate, not to be charged with the annuity; that "the object for which it was solely created having failed by the "sent of the widow as completely as it could have failed by her death "without such dissent, this fund cannot and ought not to be separated

* Opinion of Circuit Court, p. 21.

" from the estate, but must be left to pass under the will as other portions of the estate, after the widow's right to dower and her distributive share are satisfied."

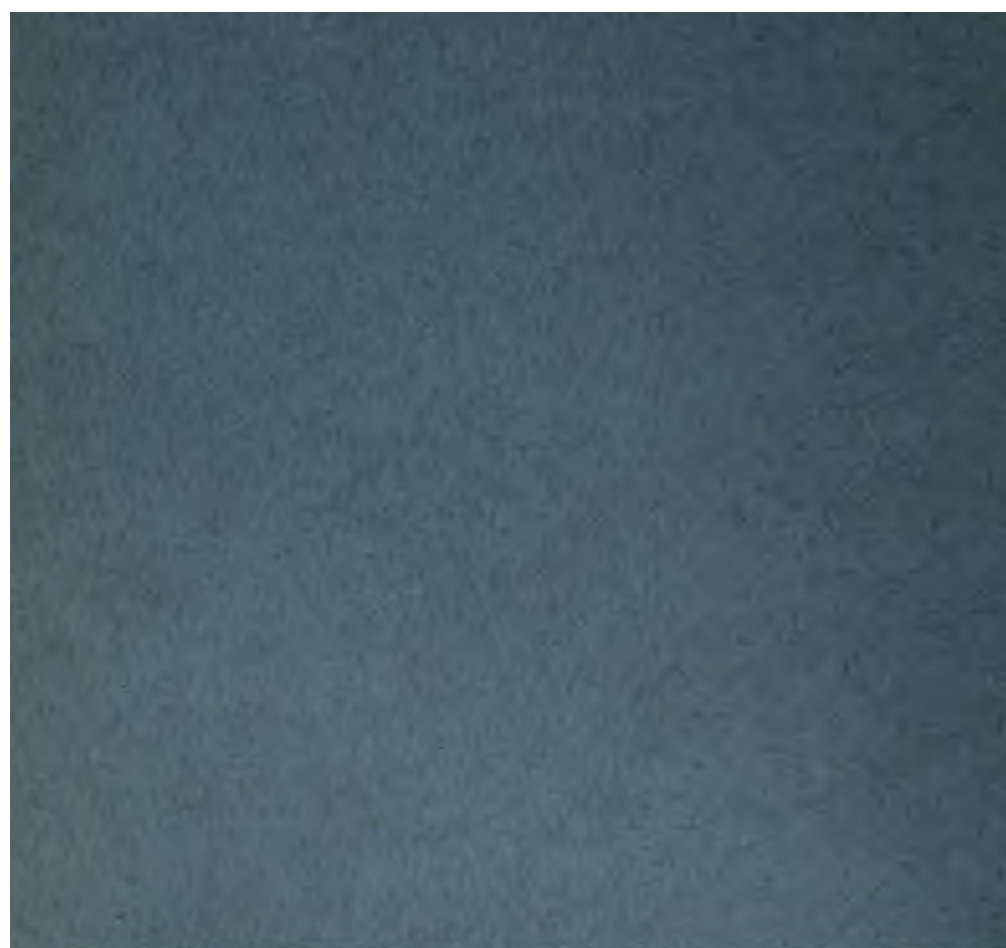
" By the words of the will," p. 206. " this sum of money is to remain a permanent fund during the natural life of the wife only ; then upon her death, of necessity, *the fund having performed what was required of it, fell back into the general mass of the estate.* * * " The dissent of the wife," page 207, " to the will discharged the fund of twenty thousand dollars as completely as her death would have done."

Throughout this case, the only subject of consideration was this fund of twenty thousand dollars, set apart for the purpose of this annuity. By the renunciation, this fund was held discharged, but no other portion of the estate was in any degree affected thereby. The same was true in all the other cases cited.

Now, I have shown that the testator has given a *description* of the persons entitled to claim as donees under this will; that those persons are described as the stirpal descendants of his brothers and sister, who shall be alive, capable of taking at the appointed time of distribution; that no one can claim as a donee, who cannot predicate of himself every element of this description; that this time of distribution is fixed by the testator after the death of Mrs. NEWBERRY, and after a first division of the estate into two parts, and that if, instead of her death, any estate in her is to be regarded for this purpose, it must be that statutory estate of hers which the testator found existing when he made the will, and for which the testamentary provision was but a substitute proposed and declined; that the gift over, then, is to a *contingent class*, to be ascertained and fixed only at that time of distribution; that this element of *the time* enters into the *description* of the persons to take, and that, consequently, these remainders are contingent, because *the persons* to be the donees are uncertain. It follows, by necessity, that until by the arrival of that time the *class* is fixed,

all interests under the limitation over remain *contingent*; that until then no interest can vest in the orators, nor in any one; that this is established, not only by all the settled rules of construction, but also by the expressed intent of the testator; that there can be no acceleration of a contingent remainder, and that the rule of acceleration cannot be applied to first *vest* the remainder in order to accelerate it; that the rule of acceleration can apply only when a precedent estate has failed, and cannot be applied to first *extinguish* the precedent estate; that there are here no such vested interests, nor any such failure of a precedent estate as are conditions precedent to the operation of the rule of acceleration. We have shown that none of the persons who represent the interests opposed to the orators are before the court as parties, and have shown the reasons why it is probable that no decree can be made in their absence which will protect these trustees in the event of future suits by such persons. We believe these conclusions are established upon reasons that amount to demonstration; and, finally, the appellants submit themselves, with great respect, to the directions of the court.





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IN THE

SUPREME COURT OF ILLINOIS,—

CENTRAL GRAND DIVISION.

JANUARY TERM, A. D. 1878.

ELIPHALET W. BLATCHFORD, ET AL.,	}	Appeal from Circuit Court, Cook County.
APPELLANTS,		
v.		
HENRY W. NEWBERRY, ET AL.,		
APPELLEES.		

OPINION OF THE COURT,

FILED JUNE 24th, A. D. 1878.

CHICAGO:

BEACH, BARNARD & CO., LEGAL PRINTERS, 104 RANDOLPH STREET.

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ELIPHALET W. BLATCHFORD, ET AL.,	}	APPEAL FROM COOK.
<i>vs.</i>		
HENRY W. NEWBERRY, ET AL.		

OPINION OF THE COURT

By MR. JUSTICE SHELDON.

—

This case is one involving the construction of a will. Walter L. Newberry, a citizen of Chicago, made his will on the 30th day of October, 1866, and died November 6th, 1868. He left a widow and two unmarried daughters. By his will, he devised and bequeathed unto two trustees his whole real and personal estate, after the payment of certain specific legacies, of inconsiderable amount, to be held upon the general trusts declared in the will until its distribution by them to the persons ultimately entitled, the will containing careful directions governing, during its period, the administration of the estate and its income. The estate was a very large one, of the estimated value of from four to five millions of dollars.

The will provides for an annual payment, by the trustees, of ten thousand dollars to the wife of the testator, and also gives to her certain articles of personal property, such as furniture, horses and carriages, books, and paintings, and a life estate in the homestead, situated in the city of Chicago, on the condition that she would consent to accept the same in lieu of her dower right, and all other right in the estate.

The remainder of the net income of the estate was to be divided by the trustees equally between the two daughters, for life, with benefit of survivorship between them in such income.

After their lives, and that of the wife, the whole of the estate was to be by the trustees divided equally amongst, and distributed to, the children of the daughters; the child or children of either taking the whole in default of lawful issue of the other. There is then this further provision, upon which the question arises, "In case of the death of
" both of my said daughters, without leaving lawful issue,
" then immediately after the decease of my wife, if she
" survive my said daughters, but if not, then immediately
" after the decease of the last surviving one of my said
" daughters, my said trustees shall divide my estate into
" two equal shares, my said trustees being the sole judges
" of the equality and correctness of such division, and shall
" at once proceed to distribute one of such shares among
" the lawful surviving descendants of my own brothers
" and sisters; such descendants taking *per stirpes* and not
" *per capita*.

" The other share of my estate shall be applied by my
" said trustees, as soon as the same can consistently be
" done, to the founding of a free public library, to be lo-
" cated in that portion of the City of Chicago now known
" as the North Division."

Both of the daughters have died without issue, and un-

married; one dying in February, 1874, the other, Julia, in April, 1876. The widow of the testator is still living. She within one year renounced her rights under the will, and took, under the law of Illinois, one-third of the personalty and her dower in the realty.

Eight nieces and nephews and ten grand nieces and nephews of the testator (the parents of the latter being dead), living at the death of the last daughter, Julia, constitute the complainants in the bill in chancery herein, which was exhibited in the Circuit Court of Cook County, asking a present distribution of the estate. The court below granted the prayer of the bill, and the defendants appeal.

The question for determination is, can there be, now during the life-time of Mrs. Newberry, a legal division of the estate by the trustees, one-half to the descendants of the testator's brothers and sisters, and the other half to the public library

Complainants claim that upon the death of the last daughter without issue, the class to whom the devise was in part made, viz: the lawful "surviving descendants" of testator's brothers and sisters were in existence and capable of taking; that at that time the estate became vested in the members of the class; that the testamentary life estate which was given to the widow by the will was the impediment to the distribution of the estate until the death of the widow, and the reason of the postponement of the distribution until that event; that such life estate having been extinguished by her renunciation, it is, as to the complainants, the same as if her life had come to an end, and that the remainder to them was accelerated under the doctrine of the acceleration of remainders, so that they became entitled to the immediate enjoyment thereof.

The defendants assert that the death of the widow is fixed by the will as the time when the division and distri-

bution by the trustees shall be made; and further that no distribution can be made till then, because they say that that time enters into the description of those who are to take; that the division is to those descendants only who survive the death of the wife; and until that time it cannot be ascertained who the donees under the will are.

Who are the donees in this devise, to whom one-half of this estate is to be distributed? They are a class of "surviving descendants" of the testator's brothers and sister. The members of this class are to be determined by the event or time to which the word "surviving" relates.

There are three periods here to which it may be claimed to relate,—the death of the testator; that of the last daughter without issue, Julia Newberry; or the time appointed for the distribution upon the death of Mrs. Newberry. However it may have been at some former time, we understand the rule now prevailing to be, that where a gift to survivors is preceded by a life or other prior interest, it takes effect in favor of those who survive the period of distribution, and those only.

In *Knight v. Poole*, 32 Beavan, 548, there was a bequest to A, and at his death, to B, and at "her decease" to be divided among four named persons, or "as many of them as may be living." The question was, at what time the persons to take must be living; for some survived one of the tenants for life, and died before the other. Sir JOHN ROMILLY said: "I am clear that no person took except those who survived the period of division. There is a gift of property to A for life, and at his death (with certain exceptions) to B; and at her decease it is to be divided between the surviving brothers and sisters who are married. The case of *Cripps v. Wolcott* clearly applies, and only those who survive both A and B could take. The property is to be divided; and nobody was to take who was not

“living at the period of division. * * * * I am of opinion that the words in question have relation to the period of division; and that the plaintiff takes no interest in the property.”

In *Stevenson v. Gullan*, 18 Beavan, 590, there were bequests to two, for their lives; and from and after their decease, to their “surviving children.” One of the tenants for life had seven children living at the death of the testatrix; six were living at his own death; but only four were living at the death of the other tenant for life. The question was, to what period the word surviving must be referred. Sir JOHN ROMILLY said:

“The survivorship must be referred to the death of the last of the tenants for life, which is the period of distribution. Where the income of a fund is given to tenants for life, and there is a gift over after their deaths, to children, or a class of persons surviving, it is a gift only to those who are then surviving.”

In *Spurrell v. Spurrell*, 11 Hare, 54, the testatrix, by will, gave all her property whatsoever to her mother, for life, and after a legacy of two hundred pounds, “then the residue of my property to be equally divided between my surviving brothers and sisters, share and share alike.” Sir W. PAGE WOOD said: “I think the word ‘surviving’ in this will, as applied to the brothers and sisters of the testatrix, must mean surviving at the time of the distribution of the fund. The word was capable of receiving four different constructions, which were suggested in the argument. * * * I think it better that the court should hold that there is no rule referring the time of survivorship of the legatee to the death of the testator. The natural inference is rather the other way. And the court must ascertain the true meaning of the testator, after looking at every portion of his will. * * * It seem to me that the period

“to which the word surviving refers, is the period when
“the fund came to be distributed—when the event has
“happened which is to guide the executors in making
“distribution.”

In *Young v. Robertson*, 8 Jur., N. S., 825, this question arose, in 1862, in the house of Lords: The testator directed his estate, real and personal, to be divided equally among his grand-nephews and grand nieces. The Lord Chancellor there said: “Now, I apprehend it to be a
“settled rule of construction, and in itself a very reasonable and natural rule, that words of survivorship occurring in a settlement (that is a will), should be referred to
“the period appointed by that settlement, for the payment
“or distribution of the subject matter of the gift. That
“is undoubtedly the rule that is now finally established
“in this country. * * * The result, therefore,
“is, that in the event of such a gift, the survivors are to be
“ascertained, in like manner, by a reference to the period
“of payment, or of distribution, namely, the expiration of
“the life estate.” Numerous other like cases might be cited.

This court recognized and applied the above rule in *Ridgeway, and others, v. Underwood, and others*, 67 Ill., 419, where, after referring to 2 Jarman on Wills, 3d American Ed., 462, and *Mariott v. Abell*, 7 Law Reports, Equity Cases, 478, as authorities to show the existence of such a rule of construction, it was said: “Here was a
“‘prior interest’ which was to be extinguished by lapse
“of time, before the land could be sold. The land was
“then to be sold, and the proceeds divided between
“certain of the children. Here then applies, with
“literal exactness, the rule expressed by Jarman. The
“will provides for survivorship. It is indefinite in its
“terms, and the rule solves the doubt by applying the

“language of the testator to those who survive the period of
“ distribution.”

In *Linton v. Boyd*, 19 Ohio State, 30, the court, after citing the case of *Young v. Robertson*, *supra*, and the statement of the rule there that words of survivorship should be referred to the period “for the payment or distribution of the subject-matter of the gift,” observed: “This undoubtedly is the general rule recognized in this country, subject, of course, to such modifications as the paramount rule giving effect to the intention of the testator, may require.” And see *Olney v. Hull*, 21 Pick., 311; *Teed v. Morton*, 60 N. Y., 503, and cases cited in note (y); 2 Williams on Executors, 1576, 7th edition.

We find it then to be the settled rule of law that, as expressed in *Cripps v. Wolcott*, 4 Mad., 11, “surviving” means surviving at the time of the distribution and possession of the estate, unless a contrary intent is specially found in the will. We do not find any such contrary intent in this will.

The form of the gift here, too, there being none except *in the direction to distribute*, adds to the strength of the rule in confining the reference of the words of survivorship to the time of distribution.

The significance which the authorities attach to such a form of gift will be found to be as laid down in *Leake v. Robinson*, 2 Meriv., 363. There was there a direction to trustees, in case William Rowe Robinson should die without issue, to pay, apply, and transfer unto and among all and every his brothers and sisters, share and share alike, upon their attainment of twenty-five, or marriage, respectively. The question was, whether those only were the donees who lived until twenty-five, and attained the actual period of payment and transfer, or whether that was merely a time fixed for payment of shares that had vested at

some antecedent period. The master of the rolls, Sir WILLIAM GRANT, said:

“ There is no direct gift to any of these classes of persons. It is only through the medium of directions given to the trustees that we can ascertain the benefits intended for them. * * There being, as I have already said, no direct gift to the grand-children, we are to see in what event it is that the trustees are to make it over to them. The attainment of twenty-five is necessary to entitle any child to claim a transfer. It is not the enjoyment that is postponed; for there is no antecedent gift, as there was in the case of *May v. Wood*, of which the enjoyment could be postponed. The direction to pay is the gift, and that gift is only to attach to children who shall attain twenty-five. * * None but a person who can predicate, of himself, that he has attained twenty-five, can claim anything under such a gift.” To similar effect, see *Vawdry v. Geddes*, 1 Rus. and Myl., 203; *Locke v. Lamb*, 4 Law Report Equity, 372; *Drake v. Pell*, 3d Edw. Chancery, 267.

Under the form of gift here, there is no gift to any one except such as are *surviving*, and capable of taking at the time of distribution. Surviving at the time of distribution is a part of the description given by the will of the donees, and there is no gift to any one who does not answer the description in this element of time. The donees then, here, are the descendants living at the time of distribution, whenever that time may be, and not those living at the death of Julia Newberry, unless that event should be coincident with the time of distribution; until the time of distribution, it is uncertain who will be alive to take then, and, until that time arrives, it cannot be ascertained and made certain who the donees are.

We find it unnecessary to enter into the discussion of the doctrine of contingent and vested remainders, the learning

pertaining to which was so elaborately gone into at the argument, and in the briefs of counsel. For even conceding the claim of complainants, that survivorship here is to be referred to the death of the last surviving daughter without issue, and that upon that event the devise to the surviving descendants of the testator's brothers and sister ceased to be a contingent, and became a vested estate in the descendants then living, still, unless the time of distribution had arrived, complainants could not maintain their bill for present distribution; and if the time of distribution has in fact arrived, the defendants' claim, that the devise is contingent as to persons, would seem to be of force no longer; as that contingency would have been determined, and the donees have become ascertained by the arrival of the period of distribution. So that we are brought to that which at last is the prime inquiry in the case: What is the time of distribution under the will? Has the period of distribution arrived?

The time appointed by the testator, in the contingency which has happened, the death of both daughters without issue, when the trustees should divide his estate into two equal shares, and at once proceed to distribute one of such shares among the lawful surviving descendants of his brothers and sister, is "immediately after the decease of my wife." Complainants say, by the renunciation of the widow, their remainder has become accelerated under the rule of acceleration of remainders, so that it is as if the widow were dead, and that thus the appointed time of distribution has arrived.

This doctrine of acceleration is stated by Theobald, thus: "Where there is a gift to A for life, and after his death to B, if A is incapable of taking because he is an attesting witness, or from any other cause, or if he refuse to take, the remainder is accelerated. The same is the case if the life estate is revoked by the testator, or determined

“by a forfeiture clause.” Theobald on Construction of Wills, 450. Jarman says, 1 Jarman on Wills, 3d Edition, 539: “The doctrine, evidently, proceeds upon the supposition that although the ulterior devise is in terms not to take effect in possession until the decease of the prior devisee, if tenant for life, or his decease without issue, if tenant in tail, yet that in point of fact it is to be read as a limitation of a remainder, to take effect in every event which removes the prior estate out of the way.” In *Full v. Jacobs*, L. R., 3 Ch. Div. 711, it is laid down “that a gift to A for life and from and after the decease of A, to B, C, D, or anybody else, means from and after the determination of the estate; and whether the estate is determined by revocation or by death, or by the incapacity of the devisee to take, or by any other circumstance, the life estate being out of the way, the remainder takes effect, having only been postponed in order that the life estate may be given to A.”

This doctrine of acceleration, however, is not an arbitrary one; but it is based on the presumed intention of the testator that the remainder-man should take on the failure of the previous estate, notwithstanding the prior donee may be still alive. And when it is the evident intention of the testator that the remainder should not take effect till the expiration of the life of the prior donee, the remainder will not be accelerated.

The further language of Vice-Chancellor MALINS, in deciding the case of *Full v. Jacobs*, *supra*, shows, clearly and fully the principle which governs this doctrine of acceleration. He says: “It is perfectly clear, in the first place, that the children are postponed to the mother, simply because the mother is to have the property for her life. But if the mother cannot have the property for her life, why are the children to be postponed? The reason of their postponement altogether ceases. They are not

“ to have it until after her death, because the testator assumed that she would have it during her life. But he was ignorant of the law that if he called in his daughter to be an attesting witness, the very gift he made to her would absolutely fail. Now, he has postponed his grandchildren, that is, his daughter’s children, solely because the daughter was to take for life; and if he had known that she could not take it for life, he would not have postponed the children until after her death. He would not have left her and her family totally destitute in the meantime. It is a mere accident that the daughter cannot take the life estate, and I am of opinion that the children are postponed to the daughter, simply that she may have the property for life, and if she could not have it for life, the children would have it immediately.”

In *Augustus v. Seabolt*, 3 Met. (Ky.), 155, where a prior life estate devised had failed, the devisee for life still living, the court refused to accelerate the remainder, because to do so, would violate the plain language of the testator, and defeat his intention. The words of the devise over in remainder being, after the death of the devisee for life, to a class of children, or such of them as might be living at the time of the death of such devisee.

In the estate of Mathew Delaney, 49 Cal., 76, the testator devised his residue of estate to executors, with directions to sell certain realty, and after certain payments, to invest the proceeds remaining to pay certain income to his children and wife during her life; and on the death of his wife, to distribute his estate among his surviving children. The executor sold the realty, and the wife, renouncing the will, claimed under the statute. The plaintiff, a daughter, claimed in her bill, that by the renunciation, the trusts in the executor were defeated, and that she was entitled to immediate distribution. The Court refused the distribution, saying :

“ The will devised to the executor the fee of the lands in
“ question, to be held in trust for the purposes mentioned
“ in the will. The renunciation by the widow of the testa-
“ tor of her right under the will, and the order of the Pro-
“ bate Court setting off to her a portion of the property as
“ common property, did not extinguish the trusts declared
“ in the will, nor divest the executor of the fee in the re-
“ maining portion of the property. The executor retained
“ the same power over the portion of the estate remaining
“ in his hands after the renunciation by the widow, and the
“ setting apart the property to her that he possessed prior
“ to the renunciation.”

As respects the intention of the testator, which is to be regarded in the interpretation of a will, it is not the intention to be deduced from speculation upon what the testator may be supposed to have intended, but it is the intention as spoken by the words of the will. In 2 Williams on Ex'rs, 7th Ed., 1078, marg. p., it is laid down: “ The use of the ex-
“ pression that the intention of the testator is to be the
“ guide, unaccompanied with the constant explanation that
“ it is to be sought in his words, and a rigorous attention
“ to them, is apt to lead the mind insensibly to speculate
“ upon what the testator may be supposed to have in-
“ tended to do, instead of strictly attending to the true
“ question, which is, what that which he has written
“ means.”

As bearing upon the testator's intention, there are other words of the will which should be considered, as : “ in case of the death of both my said daughters with-
“ out lawful issue, it is my will that thereafter the portion
“ of my estate, both principal and interest, which would
“ have belonged to them respectively, in case they or either
“ of them had survived, shall revert to and become a part
“ of my estate. And it is my will, and I direct that in the
“ case of each and every bequest, and of every instance in

“ which I have directed my trustees to pay over money to
“ any person or persons whomsoever, if the person or per-
“ sons to whom or for whose benefit I have made such
“ bequests, or directed money to be paid as aforesaid, shall
“ have deceased, or from any cause be incapable of taking,
“ then the amount so bequeathed, or so directed to be paid
“ over, shall revert to and become a part of my estate, un-
“ less I have otherwise specifically directed.” The gift or
payment of money mentioned in the last sentence above,
would seem to include this homestead and annuity offered
to Mrs. Newberry by the will, if she would consent to take
the same in lieu of her dower, which she became incap-
able, by her election, of taking ; and the direction is not,
that there shall be an immediate distribution of the estate,
but that the failing gift shall revert to and become a part
of the estate.

“ In case of the death of both or either of my
“ daughters, during the lifetime of my wife, leaving law-
“ ful issue living, it is my will, and I direct that such law-
“ ful issue shall have and receive from my said trustees
“ the portion of the net income from my estate which
“ would have belonged to that one of my daughters, from
“ whom they are descended, had she survived,” etc. To
this issue not only the income, but the whole capital is
given at the time of final distribution. Now, supposing
this last named contingency, the death of the daughters,
leaving issue living, had happened, and the present claim
for immediate distribution had been set up in behalf of
such issue, could it then have been successfully claimed
that as the widow had renounced, the estate of the trus-
tees had ceased, and guardians of the minor issue should
be appointed, and the capital of the estate be at once
turned over by the trustees? that such was the intention
of the testator, as disclosed by his will?

“ In the management and conduct of my estate by my

“ said trustees, it is my will, and I direct that the following
“ described premises and property, situate, lying and be-
“ ing in the city of Chicago aforesaid, to wit : Blocks
“ numbered nine (9), ten (10), eleven (11), and eighteen
“ (18), in Newberry’s Addition to Chicago, and Lots
“ twenty-two (22), twenty-three (23), twenty-four (24),
“ twenty-five (25), and twenty-six (26), all in Block num-
“ ber one (1), in Butler, Wright and Webster’s Addition
“ to Chicago, and Sub Lots one (1), two (2), and three (3),
“ of Lot five (5), in Block number four (4), of the original
“ Town of Chicago, shall not be sold or mortgaged by
“ my said trustees during the lifetime of my wife and
“ daughters, or either of them, nor until it shall become
“ necessary for my said trustees to divide and make final
“ division and distribution of my estate as hereinbefore in
“ this my will provided.” Then follow careful provisions
and directions concerning the powers and discretion of
the trustees, concerning leases, sales of realty, the im-
provement of the estate, by the erection of “ stores, dwell-
“ ings, hotels, offices of all kinds,” as they may judge
best for the interest of the estate, and that the premises
above described shall be first improved. Provision is
made in regard to investment by the trustees of moneys
of the estate, directing the particular securities in which
the investments shall be made.

The following provisions show that the testator con-
templated that his wife might renounce the will and hold to
her statutory estate:

“ It is my will and desire to make provision for my be-
“ loved wife, Julia Butler Newberry, provided she con-
“ sents to accept of the same in lieu of and instead of her
“ dower right, and all other right, claim and demand to
“ my estate, or any part thereof, in the following manner :
“ I give and bequeath to her,” etc. “ None of the
“ foregoing provisions for the benefit of my wife shall be

“operative or have any effect, but the same shall all and singular be inoperative and void, unless she shall within twelve (12) months after my decease relinquish in due form of law all claim to my estate.”

We are favored with the elaborate and able written opinion, delivered by the learned judge of the Circuit Court, who decided this case below, which we have read with interest and profit. It is there said that there can be no doubt that had Mrs. Newberry not renounced, but taken under the will, there could be no division or distribution now, “for two reasons: *First*. The will is clear and distinct upon this point. Three lives must terminate before distribution can be made. *Second*. In the nature of things, no division and distribution could be had so long as the widow’s testamentary estate existed. She was to derive an income from the whole property, and the income was an incumbrance upon the whole property. She was also to have a homestead, for life, out of the testator’s property.” We are quite unable to perceive why the same reasons do not exist with full force under the widow’s renunciation. The will is no more clear and distinct upon the point in the case of the one event than in the other. There are no words of the will connecting the time of final distribution with the so-called testamentary estate, any more than with the statutory one; nor, in fact, with either of them, at all.

As respects the other reason, there now remains the same impediment in the way of division and distribution, to wit: the out-standing life interest of the widow. Had she accepted the will, it would have been her homestead and annuity. Now, that she has renounced the will, it is her dower estate. It appears that a large portion of this estate is realty—defendant’s counsel says three-fourths.

The case shows that the widow’s dower has been assigned in the lands in Illinois, but not in the lands in Wis-

consist. The widow, then, has now a life estate in one-third of all the realty—showing there to be the same impediment of a life interest in the widow, to the final distribution now, that there would have been had she accepted the homestead and annuity. The annuity was not, by the terms of the will, made a charge upon the estate. A portion of the realty, it is true, has been disencumbered of the dower estate; but there was to be no piece-meal distribution of the estate; there was to be but one, a final, complete division and distribution of the entire estate, at once. This is clearly manifested by the will.

What is called here the testamentary estate was but an offer of a testamentary provision, in lieu of the statutory estate of the widow, which was never accepted. A provision, by will, in lieu of dower, is, in fact and in legal effect, a mere offer by the testator to purchase out the dower interest for the benefit of his estate. 2 Scribner on Dower, 496; 2 Williams on Ex'rs, Ed. 1877, 1364; *Isenhardt v. Brown*, 1 Ewd. Ch., 413. This offered substitute for the statutory estate might or might not be accepted by the widow, as the testator knew and foresaw, the terms of the proposal expressly declaring that it should be inoperative and void, unless the widow should, within one year, make a formal relinquishment of her statutory estate. Both contingencies, then—the one that the widow might retain her statutory estate, and the one that she might accept the proposed substitutional estate, were actually present before the mind of the testator, and in equal view of both the contingencies, he made the direction of the will, appointing the time of distribution, and those directions must govern, and must have been intended to govern equally in either one of the contingencies.

We do not see how the rule of acceleration can be made to apply here, so that the time appointed by the will for the distribution, namely, the death of Mrs. Newberry, can be accelerated to the time of the death of Julia Newberry.

The principal of that rule is, that a remainder is accelerated whenever it is apparent that the only object of postponing the remainder-man was, that the property might be enjoyed by the tenant for life. The facts of the present case preclude the idea that the postponement of the time of distribution was simply and only because of this offered testamentary provision as a substitute for the dower estate of the widow, and it was uncertain to the mind of the testator whether the proffered substitute would be accepted or not. There is no more room to say this, than that the postponement was because and on the account of such primary original dower estate, which yet subsists, and will until the death of Mrs. Newberry.

We fail to perceive any failure here of the precedent estate upon which the ultimate remainder was limited. If the time of distribution is to be considered as dependent on a life estate, it must be regarded as only contingently so on this particular testamentary substitute, in case of its acceptance; and that, if not accepted, it was dependent upon the dower estate; that it is to be viewed as fixed with reference to whichever estate should ultimately be and remain the estate of the widow, according as she should accept or renounce the provision under the will. A life interest, the dower estate, yet remains in the widow. There is, too, the trust estate. The intermediate estate is not gone and out of the way. We deem this view sufficient without noticing other objections which have been urged against the applicability here of the rule of acceleration.

The testator might very well prefer, whatever the motive, that his estate should be kept together during the life of the members of his immediate family, and he has most distinctly shown that to have been his purpose, and directed explicitly that the property should not be divided and distributed until after the termination of the three

lives. If we leave the words of the will, and seek for the object of the testator in postponing the distribution, when both daughters had died without issue, until after the decease of his wife, it cannot well be found to be because it was thought necessary that the whole of this large estate should be kept to support a trust to pay an annuity of ten thousand dollars to the wife. But a small portion of the estate would be needed to produce that annuity, and it might have been provided for, as was done by the Court in *Sears v. Hardy*, 120 Mass., 524, by setting aside a part, say \$200,000, of the personalty of the estate, invested in such securities as are directed by the will. Then the rest of the estate would be disengaged. And this, too, seems to show that this annuity would have been at least no more of an incumbrance in point of extent upon the estate than the dower interest. The annuity, as remarked, not having been made any express charge upon the estate by the terms of the will.

Upon the assumption that the period of distribution is in true meaning appointed, not upon the death of the widow, but upon the termination of the life estate in the testator's estate, it must have been in order that the division and distribution contemplated by the testator might be made, and not because of the necessity of this whole estate to support the annuity of \$10,000 to the widow. It was an integral, complete disposition of his entire estate he desired to make, which could not be made before the falling in of the reversionary estate; and it must be taken that the reversionary estate, however arising, was the reason of the postponement. Until the death of the dowress, the reversion expectant in the dower lands will not be subject to the distribution.

It is the plain purpose of the will that the division and distribution should not be made until after the termination of the three lives, only at a time after the whole estate

should have fallen in to the trustees, disencumbered of all further uses, for the two daughters or the widow.

We can come but to the one conclusion, that the period of distribution appointed by the will has not yet arrived, and will not until the death of Mrs. Newberry. To determine otherwise would seem to us to be, in this particular, making a will for the testator, instead of expounding the one which he has made.

The decree must be reversed, and the cause remanded for further proceedings, in conformity with this opinion.

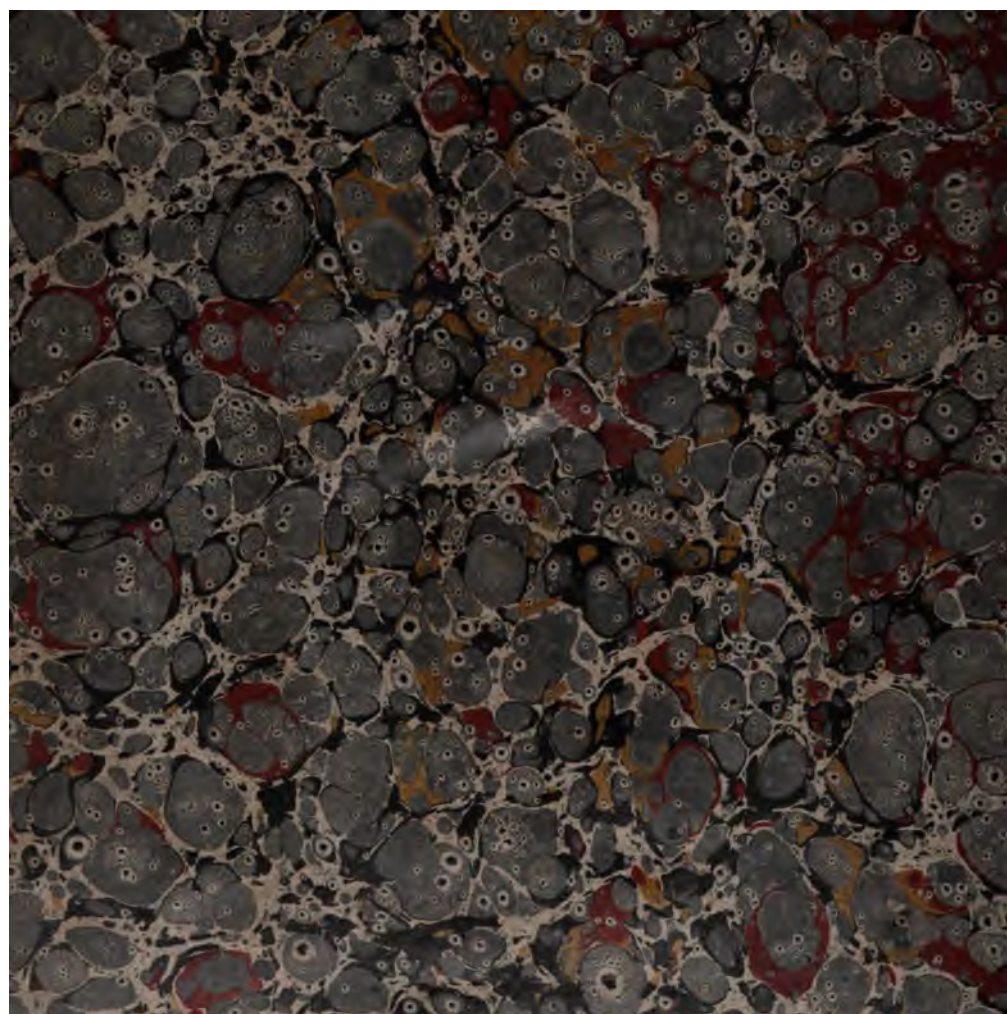
Decree reversed.

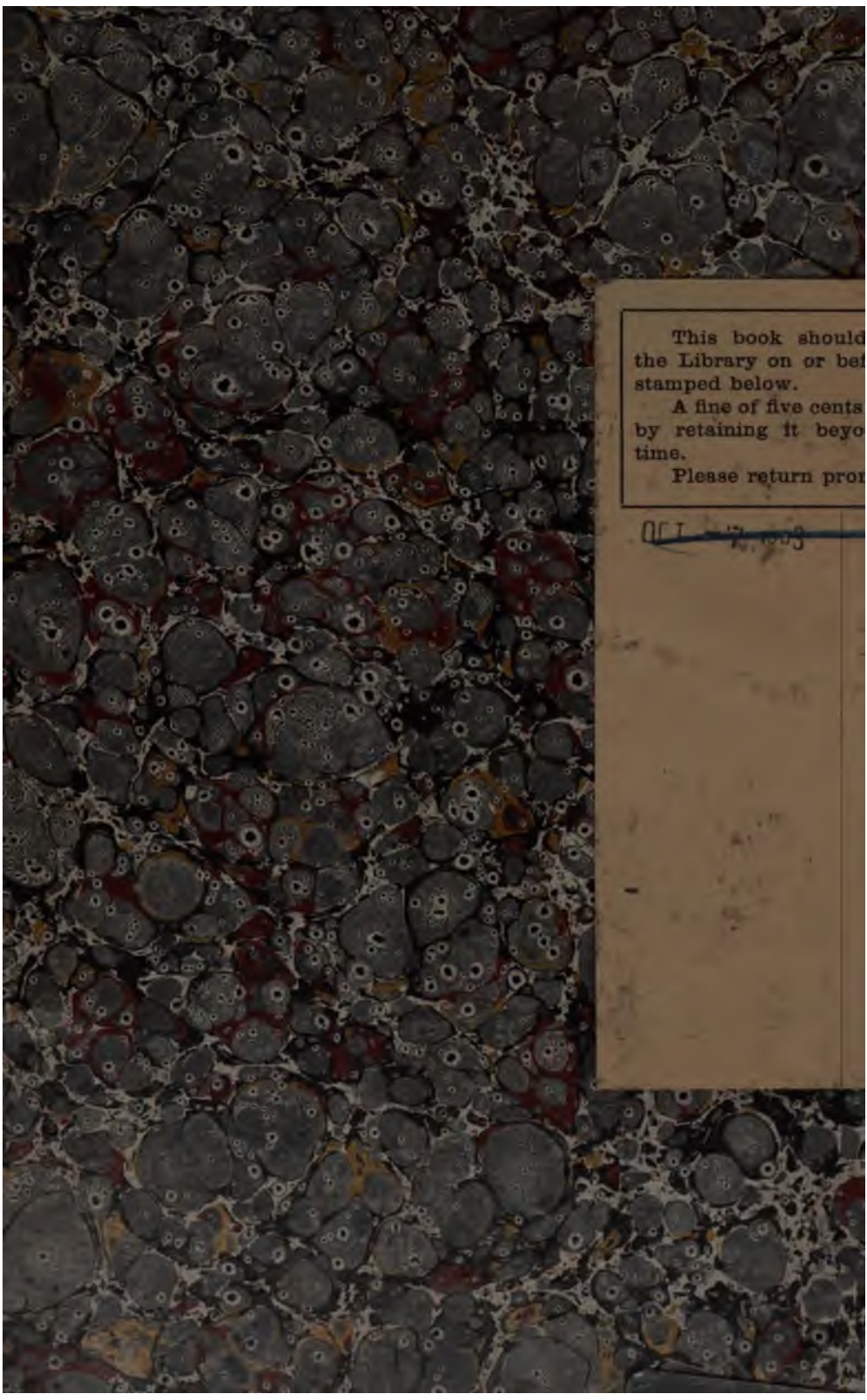


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